

SECOND REGULAR SESSION

HOUSE BILL NO. 2311

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MERIDETH (80).

5606H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 213.010, 213.020, 213.030, 213.040, 213.041, 213.045, 213.050, 213.070, 213.075, 213.076, 213.077, 213.085, 213.095, 213.101, 213.111, 213.112, 213.126, 213.135, 285.575, and 510.265, RSMo, and to enact in lieu thereof twenty-nine new sections relating to unlawful discriminatory practices, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 213.010, 213.020, 213.030, 213.040, 213.041, 213.045, 213.050, 213.070, 213.075, 213.076, 213.077, 213.085, 213.095, 213.101, 213.111, 213.112, 213.126, 213.135, 285.575, and 510.265, RSMo, are repealed and twenty-nine new sections enacted in lieu thereof, to be known as sections 213.010, 213.020, 213.030, 213.070, 213.075, 213.077, 213.085, 213.095, 213.101, 213.111, 213.126, 213.135, 213.150, 213.151, 213.152, 213.155, 213.158, 213.161, 213.164, 213.167, 213.170, 213.173, 213.176, 213.179, 213.182, 213.185, 213.188, 285.575, and 510.265, to read as follows:

213.010. As used in ~~this chapter~~ **sections 213.010 to 213.137**, the following terms shall mean:

(1) "Age", an age of forty or more years but less than seventy years, except that it shall not be an unlawful employment practice for an employer to require the compulsory retirement of any person who has attained the age of sixty-five and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policy-making position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least forty-four thousand dollars;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

10 (2) "Because" or "because of", as it relates to the adverse decision or action, the protected
11 criterion was ~~[the]~~ a motivating factor;

12 (3) "Commission", the Missouri commission on human rights;

13 (4) "Complainant", a person who has filed a complaint with the commission alleging that
14 another person has engaged in a prohibited discriminatory practice;

15 (5) "Disability", a physical or mental impairment which substantially limits one or more
16 of a person's major life activities, being regarded as having such an impairment, or a record of
17 having such an impairment, which with or without reasonable accommodation does not interfere
18 with performing the job~~[-]~~ or utilizing the place of public accommodation~~[-, or occupying the~~
19 ~~dwelling in question. For purposes of this chapter,]~~ . The term "disability" does not include
20 current, illegal use of, or addiction to, a controlled substance as such term is defined by section
21 195.010; however, a person may be considered to have a disability if that person:

22 (a) Has successfully completed a supervised drug rehabilitation program and is no longer
23 engaging in the illegal use of, and is not currently addicted to, a controlled substance or has
24 otherwise been rehabilitated successfully and is no longer engaging in such use and is not
25 currently addicted;

26 (b) Is participating in a supervised rehabilitation program and is no longer engaging in
27 illegal use of controlled substances; or

28 (c) Is erroneously regarded as currently illegally using, or being addicted to, a controlled
29 substance;

30 (6) "Discrimination", conduct proscribed herein, taken because of race, color, religion,
31 national origin, ancestry, sex, ~~[or]~~ age as it relates to employment, or disability~~[-, or familial~~
32 ~~status as it relates to housing]~~;

33 (7) ~~["Dwelling", any building, structure or portion thereof which is occupied as, or~~
34 ~~designed or intended for occupancy as, a residence by one or more families, and any vacant land~~
35 ~~which is offered for sale or lease for the construction or location thereon of any such building,~~
36 ~~structure or portion thereof;~~

37 ~~——(8)]~~ "Employer", a person engaged in an industry affecting commerce who has six or
38 more employees for each working day in each of twenty or more calendar weeks in the current
39 or preceding calendar year, and shall include the state, or any political or civil subdivision
40 thereof, or any person employing six or more persons within the state, **and any person directly**
41 **acting in the interest of an employer**, but does not include corporations and associations owned
42 or operated by religious or sectarian organizations. "Employer" shall not include:

43 (a) The United States;

44 (b) A corporation wholly owned by the government of the United States;

45 (c) ~~[An individual employed by an employer;~~

46 ~~———(d)]~~ An Indian tribe;

47 ~~[(e)]~~ **(d)** Any department or agency of the District of Columbia subject by statute to
48 procedures of the competitive service, as defined in 5 U.S.C. Section ~~[2404]~~ **2102**; or

49 ~~[(4)]~~ **(e)** A bona fide private membership club, other than a labor organization, that is
50 exempt from taxation under 26 U.S.C. Section 501(c);

51 ~~[(9)]~~ **(8)** "Employment agency" includes any person or agency, public or private,
52 regularly undertaking with or without compensation to procure employees for an employer or
53 to procure for employees opportunities to work for an employer;

54 ~~[(10)]~~ **(9)** "Executive director", the executive director of the Missouri commission on
55 human rights;

56 ~~[(11)]~~ ~~"Familial status", one or more individuals who have not attained the age of~~
57 ~~eighteen years being domiciled with:~~

58 ~~———(a)~~ A parent or another person having legal custody of such individual; or

59 ~~———(b)~~ The designee of such parent or other person having such custody, with the written
60 permission of such parent or other person. ~~The protections afforded against discrimination~~
61 ~~because of familial status shall apply to any person who is pregnant or is in the process of~~
62 ~~securing legal custody of any individual who has not attained the age of eighteen years;~~

63 ~~———(12)~~ ~~"Human rights fund", a fund established to receive civil penalties as required by~~
64 ~~federal regulations and as set forth by subdivision (2) of subsection 11 of section 213.075, and~~
65 ~~which will be disbursed to offset additional expenses related to compliance with the Department~~
66 ~~of Housing and Urban Development regulations;~~

67 ~~———(13)]~~ **(10)** "Labor organization" includes any organization which exists for the purpose,
68 in whole or in part, of collective bargaining or of dealing with employers concerning grievances,
69 terms or conditions of employment, or for other mutual aid or protection in relation to
70 employment;

71 ~~[(14)]~~ **(11)** "Local commissions", any commission or agency established prior to August
72 13, 1986, by an ordinance or order adopted by the governing body of any city, constitutional
73 charter city, town, village, or county;

74 ~~[(15)]~~ **(12)** **"Motivating factor", the protected classification actually played a role**
75 **in the adverse action or decision and had a determinative influence on the adverse action**
76 **or decision;**

77 **(13)** "Person" includes one or more individuals, corporations, partnerships, associations,
78 organizations, labor organizations, legal representatives, mutual companies, joint stock
79 companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other organized
80 groups of persons;

81 ~~[(16)]~~ **(14)** "Places of public accommodation", all places or businesses offering or
82 holding out to the general public, goods, services, privileges, facilities, advantages or
83 accommodations for the peace, comfort, health, welfare and safety of the general public or such
84 public places providing food, shelter, recreation and amusement, including, but not limited to:

85 (a) Any inn, hotel, motel, or other establishment which provides lodging to transient
86 guests, other than an establishment located within a building which contains not more than five
87 rooms for rent or hire and which is actually occupied by the proprietor of such establishment as
88 his **or her** residence;

89 (b) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility
90 principally engaged in selling food for consumption on the premises, including, but not limited
91 to, any such facility located on the premises of any retail establishment;

92 (c) Any gasoline station, including all facilities located on the premises of such gasoline
93 station and made available to the patrons thereof;

94 (d) Any motion picture house, theater, concert hall, sports arena, stadium, or other place
95 of exhibition or entertainment;

96 (e) Any public facility owned, operated, or managed by or on behalf of this state or any
97 agency or subdivision thereof, or any public corporation; and any such facility supported in
98 whole or in part by public funds;

99 (f) Any establishment which is physically located within the premises of any
100 establishment otherwise covered by this section or within the premises of which is physically
101 located any such covered establishment, and which holds itself out as serving patrons of such
102 covered establishment;

103 ~~[(17)] "Rent" includes to lease, to sublease, to let and otherwise to grant for consideration~~
104 ~~the right to occupy premises not owned by the occupant;~~

105 ~~———[(18)]~~ **(15)** "Respondent", a person who is alleged to have engaged in a prohibited
106 discriminatory practice in a complaint filed with the commission;

107 ~~[(19)] "The motivating factor", the employee's protected classification actually played a~~
108 ~~role in the adverse action or decision and had a determinative influence on the adverse decision~~
109 ~~or action;~~

110 ~~———[(20)]~~ **(16)** "Unlawful discriminatory practice", any act that is unlawful under ~~[this~~
111 ~~chapter]~~ **sections 213.010 to 213.137.**

213.020. 1. There is hereby created a "Missouri Commission on Human Rights". It shall
2 consist of eleven members, with no less than one from each of the congressional districts of this
3 state, serving without compensation, to be appointed by the governor with the advice and consent
4 of the senate. One of the members shall be appointed chairperson by the governor.
5 Appointments to the commission shall be for a term of six years. No more than six members at

6 any one time shall be members of the same political party. In the event of the death or
7 resignation of any member, his **or her** successor shall be appointed to serve for the unexpired
8 period of the term for which such member had been appointed.

9 2. ~~[The]~~ A function of the commission shall be to encourage fair treatment for and to
10 foster mutual understanding and respect among, and to discourage discrimination **in**
11 **employment and public accommodation** against, any racial, ethnic, religious or other group
12 protected by ~~[this chapter]~~ **sections 213.010 to 213.137**, members of these groups or persons
13 with disabilities.

14 3. Any local commission created and established prior to August 13, 1986, by an
15 ordinance adopted by the governing body of any city, constitutional charter city, town, village,
16 or county, shall have the power and authority to seek to eliminate and prevent discrimination in
17 employment~~[-housing]~~ and public accommodation, and to establish related programs, which
18 shall be certified by the commission as substantially equivalent. The power and authority of such
19 commissions to initiate and pursue administrative proceedings and remedies shall be solely as
20 provided in section 213.135.

213.030. 1. The powers and duties of the commission shall be:

2 (1) To seek to eliminate and prevent discrimination **in employment and in places of**
3 **public accommodation** because of race, color, religion, national origin, ancestry, sex, age as it
4 relates to employment, **or disability**~~[-or familial status as it relates to housing]~~ and to take other
5 actions against discrimination because of race, color, religion, national origin, ancestry, sex, age,
6 **or disability**~~[-or familial status as provided by law; and]~~ . The commission is hereby given
7 general jurisdiction and power for such purposes;

8 (2) To implement the purposes of this chapter first by conference, conciliation and
9 persuasion so that persons may be guaranteed their civil rights and goodwill be fostered;

10 (3) To formulate policies to implement the purposes of this chapter and to make
11 recommendations to agencies and officers of the state and political subdivisions in aid of such
12 policies and purposes;

13 (4) To appoint such employees as it may deem necessary, fix their compensation within
14 the appropriations provided and in accordance with the wage structure established for other state
15 agencies, and prescribe their duties;

16 (5) To obtain upon request and utilize the services of all governmental departments and
17 agencies to be paid from appropriations to this commission;

18 (6) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out
19 the provisions of this chapter and the policies and practices of the commission in connection
20 therewith;

21 (7) To receive, investigate, initiate, and pass upon complaints alleging discrimination
22 in employment~~[, housing]~~ or in places of public ~~[accommodations]~~ **accommodation** because of
23 race, color, religion, national origin, ancestry, sex, age as it relates to employment, **or** disability,
24 ~~[or familial status as it relates to housing]~~ and to require the production for examination of any
25 books, papers, records, or other materials relating to any matter under investigation;

26 (8) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, to
27 take the testimony of any person under oath, and, in connection therewith, to require the
28 production for examination of any books, papers or other materials relating to any matter under
29 investigation or in question before the commission;

30 (9) To issue publications and the results of studies and research which will tend to
31 promote goodwill and minimize or eliminate discrimination in ~~[housing]~~ employment or in
32 places of public accommodation because of race, color, religion, national origin, ancestry, sex,
33 age as it relates to employment, **or** disability~~[, or familial status as it relates to housing]~~;

34 (10) To provide each year to the governor and to the general assembly a full written
35 report of all its activities and of its recommendations;

36 (11) To adopt an official seal;

37 (12) To cooperate, act jointly, enter into cooperative or work-sharing agreements with
38 the United States Equal Employment Opportunity Commission, the United States Department
39 of Housing and Urban Development, and other federal agencies and local commissions or
40 agencies to achieve the purposes of this chapter;

41 (13) To accept grants, private gifts, bequests, and establish funds to dispose of such
42 moneys so long as the conditions of the grant, gift, or bequest are not inconsistent with the
43 purposes of this chapter and are used to achieve the purposes of this chapter[;]

44 ~~———— (14) To establish a human rights fund as defined in section 213.010, for the purposes of~~
45 ~~administering sections 213.040, 213.045, 213.050, 213.070, 213.075, and 213.076].~~

46 2. No rule or portion of a rule promulgated under the authority of this chapter shall
47 become effective unless it has been promulgated pursuant to the provisions of section 536.024.

213.070. 1. It shall be an unlawful discriminatory practice ~~[for an employer,~~
2 ~~employment agency, labor organization, or place of public accommodation]:~~

3 (1) To aid, abet, incite, compel, or coerce the commission of acts prohibited under ~~[this~~
4 ~~chapter]~~ **sections 213.010 to 213.137**, or to attempt to do so;

5 (2) To retaliate or discriminate in any manner against any other person because such
6 person has opposed any practice prohibited by ~~[this chapter]~~ **sections 213.010 to 213.137**, or
7 because such person has filed a complaint, testified, assisted, or participated in any manner in
8 any investigation, proceeding or hearing conducted pursuant to ~~[this chapter]~~ **sections 213.075**
9 **to 213.137**;

10 (3) For the state or any political subdivision of this state to discriminate on the basis of
11 race, color, religion, national origin, sex, ancestry, age, as it relates to employment, **or** disability[;
12 ~~or familial status as it relates to housing~~]; or

13 (4) To discriminate in any manner against any other person because of such person's
14 association with any person protected by ~~[this chapter]~~ **sections 213.010 to 213.137**.

15 2. ~~[This chapter]~~ **Sections 213.010 to 213.137**, in addition to ~~[chapter]~~ **chapters** 285 and
16 ~~[chapter]~~ 287, shall provide the exclusive remedy for any and all claims for injury or damages
17 arising out of an employment relationship.

213.075. 1. As a jurisdictional condition precedent to filing a civil action under ~~[this~~
2 ~~chapter]~~ **sections 213.010 to 213.137**, any person claiming to be aggrieved by an unlawful
3 discriminatory practice shall make, sign and file with the commission a verified complaint in
4 writing, within one hundred eighty days of the alleged act of discrimination, which shall state
5 the name and address of the ~~[employer, employment agency, labor organization, or place of~~
6 ~~public accommodation]~~ **person** alleged to have committed the unlawful discriminatory practice
7 and which shall set forth the particulars thereof and such other information as may be required
8 by the commission. The complainant's agent, attorney or the attorney general may, in like
9 manner, make, sign and file such complaint. The failure to timely file a complaint with the
10 commission shall deprive the commission of jurisdiction to investigate the complaint. The
11 commission shall make a determination as to its jurisdiction with respect to all complaints.
12 Notwithstanding any other provision of ~~[this chapter]~~ **sections 213.010 to 213.137** to the
13 contrary, if a complaint is not filed with the commission within one hundred eighty days of the
14 alleged act of discrimination, the commission shall lack jurisdiction to take any action on such
15 a complaint other than to dismiss the complaint for lack of jurisdiction. The failure to timely file
16 a complaint with the commission may be raised as a complete defense by a respondent or
17 defendant at any time, either during the administrative proceedings before the commission, or
18 in subsequent litigation, regardless of whether the commission has issued the person claiming
19 to be aggrieved a letter indicating his or her right to bring a civil action and regardless of whether
20 the employer asserted the defense before the commission.

21 2. Any complaint which is filed with the federal Equal Employment Opportunity
22 Commission or other federal agencies with which the commission has a work-sharing or deferral
23 agreement, or with a local commission which has been certified as substantially equivalent by
24 the commission, shall be deemed filed with the commission on the date that such complaint is
25 received by such federal agency or local commission. A copy of all complaints filed with a local
26 commission with the authority to enforce the provisions of ~~[this chapter is to]~~ **sections 213.010**
27 **to 213.137 shall** be forwarded to the commission within seven days of the filing thereof with
28 such local commission. If a local commission has jurisdiction to hear a complaint filed with the

29 commission, such complaint shall be deemed to have been filed with the local commission on
30 the date on which such complaint was filed with the commission. The commission shall, within
31 seven days of the receipt of a complaint which a local commission has jurisdiction to hear,
32 forward a copy thereof to such local commission.

33 3. After the filing of any complaint, the executive director shall, with the assistance of
34 the commission's staff, promptly investigate the complaint, and if the director determines after
35 the investigation that probable cause exists for crediting the allegations of the complaint, the
36 executive director shall immediately endeavor to eliminate the unlawful discriminatory practice
37 complained of by conference, conciliation and persuasion, and shall report the results to the
38 commission. The investigation, determination of probable cause and conciliation shall be
39 conducted according to such rules, regulations and guidelines as the commission shall prescribe.

40 4. A person who is not named as a respondent in a complaint, but who is identified as
41 a respondent in the course of investigation, may be joined as an additional or substitute
42 respondent upon written notice, pursuant to such rules, regulations, and guidelines as the
43 commission shall prescribe. Such notice, in addition to complying with the requirements of such
44 rules, regulations, and guidelines, shall also state the reason why the person to whom the notice
45 is addressed has been joined as a party.

46 5. In case of failure to eliminate such discriminatory practice as found in the
47 investigation, if in the judgment of the chairperson of the commission circumstances so warrant,
48 there shall be issued and served in the name of the commission, a written notice, together with
49 a copy of the complaint, as it may have been amended, requiring the person named in the
50 complaint, hereinafter referred to as "respondent", to answer the charges of the complaint at a
51 hearing, at a time and place to be specified in the notice, before a panel of at least three members
52 of the commission sitting as the commission or before a hearing examiner licensed to practice
53 law in this state who shall be appointed by the executive director and approved by the
54 commission. The place of the hearing shall be in the office of the commission or such other
55 place designated by it, except that if the respondent so requests, in writing, the hearing shall be
56 held in the county of such person's residence or business location at the time of the alleged
57 unlawful discriminatory practice. A copy of the notice shall also be served on the complainants.

58 ~~6. [In all cases where a written notice of hearing has been issued and a party has not~~
59 ~~elected the option to proceed in circuit court as set forth in section 213.076, the procedures set~~
60 ~~forth for a hearing shall apply.~~

61 ~~7.]~~ The commission shall be a party to the action and shall be represented before the
62 panel or the hearing examiner by the office of the attorney general or, when so delegated by the
63 attorney general, a staff attorney of the commission. Neither the hearing examiner nor any

64 member of the panel shall have participated in the investigation of the complaint. Evidence
65 concerning endeavors at conciliation shall be excluded.

66 [8.] 7. The respondent may file a written verified answer to the complaint and appear
67 at the hearing in person or otherwise with or without counsel, and submit testimony. At the
68 discretion of the hearing examiner or the panel, the complainant may be allowed to intervene,
69 thereby becoming a party to the action with the right to present testimony in person or by
70 counsel, provided the complainant at all times shall be treated as a party for the purpose of
71 discovery and the taking of depositions. The commission or complainant intervenor shall have
72 the power to reasonably and fairly amend any complaint, and the respondent shall have like
73 power to amend any answer. The testimony taken at the hearing shall be under oath and be
74 transcribed.

75 [9.] 8. In any contested case before the commission, any party may take and use written
76 interrogatories, requests for production of documents and other materials, and requests for
77 admissions, and all other forms of discovery authorized by rules of civil procedure in the same
78 manner, upon, and under the same conditions, and upon the same notice, as is or may hereafter
79 be provided for with respect to the taking and using of written interrogatories, requests for
80 production of documents and other materials, and requests for admissions, and all other forms
81 of discovery authorized by rules of civil procedure in civil actions in the circuit court. The panel
82 or hearing examiner shall have the authority to impose sanctions in the same manner as set forth
83 in the rules of civil procedure.

84 [10.] 9. The hearing shall be conducted in the manner provided by chapter 536.

85 [11.] 10. When the case is heard by a panel of the commission, the chairperson of the
86 commission shall select the hearing panel and the presiding officer. The presiding officer shall
87 have full authority to call and examine witnesses, admit or exclude evidence and rule upon all
88 motions and objections. The panel shall state its findings of fact and conclusions of law, and if,
89 upon all the evidence at the hearing, the panel finds[:

90 ———(1)] that a respondent has engaged in an unlawful discriminatory practice [~~as defined in~~
91 ~~this chapter~~], the commission shall issue and cause to be served on the respondent an order
92 requiring the respondent to cease and desist from the unlawful discriminatory practice. The order
93 shall require the respondent to take such affirmative action, as in the panel's judgment will
94 implement the purposes of [~~this chapter~~] **sections 213.010 to 213.137**, including, but not limited
95 to, payment of back pay; hiring; reinstatement or upgrading; restoration to membership in any
96 respondent labor organization; [~~the extension of full, equal and unsegregated housing;~~] the
97 extension of full, equal and unsegregated public accommodations; [~~extension of a commercial~~
98 ~~real estate loan or other financial assistance; extension or restoration of membership or~~

participation in any multiple listing service or other real estate service organization or facility;]
payment of actual damages; and the submission of a report of the manner of compliance];

~~———— (2) That a respondent has engaged or is about to engage in a violation of section 213.040, 213.045, 213.050, or 213.070, to the extent that the alleged violation of section 213.070 relates to or involves a violation of one or more of such other sections or relates to or involves the encouraging, aiding, or abetting of a violation of such other sections, the commission may, in addition to the relief provided in subdivision (1) of this subsection, assess a civil penalty against the respondent, for purposes of vindicating the public interest.~~

~~———— (a) In an amount not exceeding two thousand dollars if the respondent has not been adjudged to have violated one or more of the sections enumerated in subdivision (2) of this subsection within five years of the date of the filing of the complaint;~~

~~———— (b) In an amount not exceeding five thousand dollars if the respondent has been adjudged to have committed one violation of the sections enumerated in subdivision (2) of this subsection within five years of the date on which the complaint is filed;~~

~~———— (c) In an amount not exceeding ten thousand dollars if the respondent has been adjudged to have committed two or more prior violations of the sections enumerated in subdivision (2) of this subsection within seven years of the date on which the complaint is filed.~~

All civil penalties set forth in this subsection shall be paid to the human rights fund].

[12.] 11. If, upon all the evidence, the panel finds that a respondent has not engaged in any unlawful discriminatory practice, the panel shall state its findings of fact and conclusions of law and shall issue and cause to be served on the complainant and respondent an order dismissing the complaint.

[13.] 12. When the case is heard by a hearing examiner, the examiner shall have all powers described in subdivision (8) of **subsection 1** of section 213.030 and subsection [14] **10** of this section, for the purpose of the hearing. The hearing examiner shall make findings of fact and conclusions of law and shall recommend to the commission an order granting such relief as provided in subsection [14] **10** of this section or dismissing the complaint as to the respondent as provided in subsection [12] **11** of this section, in accordance with such findings.

[14.] 13. A panel of at least three members of the commission, sitting as the commission, shall review the record, findings and recommended order of the hearing examiner. The panel shall thereafter accept or amend the recommended order which shall become the order of the commission. All orders shall be served on the complainant and respondent, and copies shall be delivered to the attorney general and such other public officers as the commission deems proper.

134 ~~[15.]~~ 14. No order of the commission issued pursuant to this section shall affect any
135 contract, sale, encumbrance or lease consummated before the issuance of such order and
136 involving a bona fide purchaser without actual notice of the charge filed pursuant to this section.

137 ~~[16.]~~ 15. Any person aggrieved by an order of the commission may appeal as provided
138 in chapter 536.

213.077. 1. During the period beginning with the filing of a complaint under section
2 213.075, and ending with the filing of a charge, setting of a complaint for hearing or dismissal
3 of a complaint pursuant to the provisions of that section, the executive director and the
4 commission staff shall, to the extent feasible, engage in settlement and/or conciliation with
5 respect to the complaint. Any settlement and conciliation agreement negotiated during such
6 period shall be an agreement between the complainant and respondent and shall be subject to
7 approval by the executive director. Nothing said or done in the course of settlement or
8 conciliation under this section shall be made public or used as evidence in any subsequent
9 proceeding under ~~[this chapter]~~ **sections 213.010 to 213.137**, without the written consent of the
10 complainant and respondent.

11 2. If a complaint has been filed pursuant to section 213.055, 213.065 or 213.070, alleging
12 commission of an unlawful employment practice or discrimination in public accommodations:

13 (1) During investigation, the public shall not have access to records relating to the
14 complaint, nor shall any information relating thereto be released to the public;

15 (2) During investigation, the complainant and respondent shall only have access to
16 records they provided until the point at which disclosure is allowed at hearing, or if a request for
17 civil action is made under section 213.111 for a right to or other legal proceedings pursuant to
18 federal, state or local discrimination laws that require disclosure;

19 (3) Settlement agreements, executed during investigation shall be disclosed to the public
20 only by agreement of the complainant and respondent;

21 (4) After closure of a complaint, the public may only have access to the complaint and
22 closure documents by agreement of the complainant and respondent;

23 (5) Excluding a finding of probable cause, after an investigation closure, the complainant
24 and respondent may have access to the investigative file except for sensitive or confidential
25 records and records relating to witnesses who have requested anonymity. With respect to records
26 that the commission has obtained from other government agencies, the commission ~~[will]~~ **shall**
27 observe any statutory confidentiality provisions imposed on the originating agencies;

28 (6) A conciliation agreement shall be disclosed to the public only by agreement of the
29 complainant and respondent;

30 (7) After failure of conciliation attempts, the complainant and respondent may have
31 access to copies of the investigative file, except for sensitive or confidential records and records
32 relating to witnesses who have requested anonymity;

33 (8) To achieve the purposes of ~~[this chapter]~~ **sections 213.010 to 213.137**, this
34 subsection shall not apply to disclosure of information to representatives of interested federal,
35 state or local civil or human rights agencies.

36 ~~[3. If a complaint is filed alleging violation of section 213.040, 213.045, 213.050, or~~
37 ~~213.070, to the extent that the alleged violation of section 213.070 relates to or involves~~
38 ~~violations of one or more of the other above enumerated sections or relates to or involves the~~
39 ~~encouraging, aiding or abetting of violation of such sections:~~

40 ~~—— (1) The public, complainant and respondent shall have access to records relating to the~~
41 ~~complaint in the same manner as set forth in subdivisions (1), (2), (4), (5), (7), and (8) of~~
42 ~~subsection 2 of this section;~~

43 ~~—— (2) Any settlement or conciliation agreement entered into by the complainant and~~
44 ~~respondent shall be made public unless the parties thereto otherwise agree and the executive~~
45 ~~director determines that disclosure is not required to further the purpose of this chapter.]~~

213.085. 1. All final decisions, settlement agreements, conciliation agreements,
2 findings, rules and orders of the commission under any provision of ~~[this chapter]~~ **sections**
3 **213.010 to 213.137** shall be in writing. Parties to proceedings shall each be sent a copy of the
4 commission's decision and order in the proceedings.

5 2. Any person who is aggrieved by a final decision, finding, rule or order of the
6 commission may obtain judicial review by filing a petition in the circuit court of the county of
7 proper venue within thirty days after the mailing or delivery of the notice of the commission's
8 final decision.

9 3. Judicial review shall be in the manner provided by chapter 536, as it may be amended
10 or superseded from time to time. The venue of such cases shall, at the option of the appealing
11 party, be in the circuit court of Cole County or in the county of the appealing party's residence,
12 or if the appealing party is a corporation, domestic or foreign, having a registered office or
13 business office in this state, in the county of its registered office or business office.

14 4. If no proceeding for review is instituted in the circuit court within the time herein
15 prescribed, the commission may obtain an order in a proceeding brought in the circuit court of
16 the county wherein the unlawful discriminatory practice which is the subject of the commission's
17 order occurred, or the county wherein any person required in the order to cease and desist from
18 an unlawful discriminatory practice, or to take other affirmative action, resides or conducts
19 business. The record on the commission's petition for enforcement shall consist solely of duly
20 certified records of the commission showing that it has jurisdiction over the respondent, that the

21 procedure prescribed by this action has been complied with, and a certified copy of the
22 commission's order with proof of service. On such a petition, the inquiry of the court shall be
23 limited to a determination of whether the action of the commission is in excess of its statutory
24 authority or jurisdiction and whether the respondent has substantially complied with the order
25 of the commission.

26 5. Where no proceeding for judicial review is filed within the time established under
27 subsection 3 of this section, and the commission has not filed a petition for enforcement of its
28 order in the circuit court, any person entitled to relief may, after the expiration of sixty days from
29 the date of the commission's order, file a petition for enforcement of the commission's decision
30 in a circuit court having proper venue thereof. The contents of the petition and the jurisdiction
31 of the court shall be as set forth in subsection 4 of this section.

32 6. Where a suit for enforcement of a commission order has been filed pursuant to either
33 subsection 4 or 5 of this section, the circuit court shall issue its order enforcing the commission
34 decision, unless the party against whom enforcement is sought affirmatively shows that:

35 (1) The court is without jurisdiction or venue;

36 (2) Such commission order violates the provisions of the constitution of this state or of
37 the United States;

38 (3) The commission order is beyond its statutory authority or jurisdiction; or

39 (4) The party has substantially complied with the order of the commission.

40 7. Where the commission deems there has been a breach of the terms or conditions of
41 a settlement agreement or conciliation agreement, the commission shall institute an action in
42 circuit court to enforce the terms of the agreement or to obtain the appropriate remedy for such
43 breach. Nothing in this subsection shall prohibit the parties to such agreement from personally
44 filing suit to enforce this subsection.

213.095. Any person who shall willfully violate an order of the commission **issued and**
2 **served under section 213.075** shall be guilty of a class C misdemeanor.

213.101. 1. The provisions of ~~[this chapter]~~ **sections 213.010 to 213.137** shall be
2 construed to accomplish the purposes thereof and any law inconsistent with any provision of ~~[this~~
3 ~~chapter]~~ **such sections** shall not apply. Nothing contained in ~~[this chapter]~~ **sections 213.010 to**
4 **213.137** shall be deemed to repeal any of the provisions of any law of this state relating to
5 discrimination because of race, color, religion, national origin, sex, ancestry, age, **or disability**;
6 **or familial status**].

7 2. The general assembly hereby expressly abrogates the case of McBryde v. Ritenour
8 School District, 207 S.W.3d 162 (Mo.App. E.D. 2006), and its progeny as it relates to the
9 necessity and appropriateness of the issuance of a business judgment instruction. In all civil

10 actions brought under ~~[this chapter]~~ **sections 213.010 to 213.137**, a jury shall be given an
11 instruction expressing the business judgment rule.

12 3. If an employer in a case brought under ~~[this chapter]~~ **sections 213.010 to 213.137** files
13 a motion pursuant to rule 74.04 of the Missouri rules of civil procedure, the court shall consider
14 the burden-shifting analysis of McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), and
15 its progeny to be highly persuasive for analysis in cases not involving direct evidence of
16 discrimination.

17 4. The general assembly hereby expressly abrogates by this statute the cases of
18 Daugherty v. City of Maryland Heights, 231 S.W.3d 814 (Mo. 2007) and its progeny as they
19 relate to the contributing factor standard and abandonment of the burden-shifting framework
20 established in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973).

21 5. The general assembly hereby expressly abrogates by this statute the holding in Hurst
22 v. Kansas City Mo. School District, 437 S.W.3d 327 (Mo.App. W.D. 2014), that Missouri
23 Approved Instruction 19.01 may be applied to actions brought pursuant to ~~[this chapter]~~ **sections**
24 **213.010 to 213.137**, and the holding in Thomas v. McKeever's Enterprises, Inc., 388 S.W.3d 206
25 (Mo.App. W.D. 2012), that juries shall not be instructed that plaintiffs bear the burden of
26 establishing "but for" causation in actions brought pursuant to ~~[this chapter]~~ **sections 213.010**
27 **to 213.137**.

28 6. The general assembly hereby abrogates all Missouri-approved jury instructions
29 specifically addressing civil actions brought under ~~[this chapter]~~ **sections 213.010 to 213.137**
30 which were in effect prior to August 28, 2017.

213.111. 1. If, after one hundred eighty days from the filing of a complaint alleging an
2 unlawful discriminatory practice pursuant to section 213.055, 213.065 or 213.070 to the extent
3 that the alleged violation of section 213.070 relates to or involves a violation of section 213.055
4 or 213.065, or subdivision (3) of subsection 1 of section 213.070 as it relates to employment and
5 public accommodations, the commission has not completed its administrative processing and the
6 person aggrieved so requests in writing, the commission shall issue to the person claiming to be
7 aggrieved a letter indicating his or her right to bring a civil action within ninety days of such
8 notice against the respondent named in the complaint. ~~[If, after the filing of a complaint pursuant~~
9 ~~to sections 213.040, 213.045, 213.050 and 213.070, to the extent that the alleged violation of~~
10 ~~section 213.070 relates to or involves a violation of sections 213.040, 213.045 and 213.050, or~~
11 ~~subdivision (3) of subsection 1 of section 213.070 as it relates to housing, and the person~~
12 ~~aggrieved so requests in writing, the commission shall issue to the person claiming to be~~
13 ~~aggrieved a letter indicating his or her right to bring a civil action within ninety days of such~~
14 ~~notice against the respondent named in the complaint.]~~ The commission may not at any other
15 time or for any other reason issue a letter indicating a complainant's right to bring a civil action

16 **under sections 213.010 to 213.137.** Such an action may be brought in any circuit court in any
17 county in which the unlawful discriminatory practice is alleged to have ~~[been committed]~~
18 **occurred**, either before a circuit or associate circuit judge. Upon issuance of this notice, the
19 commission shall terminate all proceedings relating to the complaint. No person may file or
20 reinstate a complaint with the commission after the issuance of a notice under this section
21 relating to the same practice or act. Any action brought in court under this section shall be filed
22 within ninety days from the date of the commission's notification letter to the individual but no
23 later than two years after the alleged cause occurred or its reasonable discovery by the alleged
24 injured party.

25 2. The court may grant as relief, as it deems appropriate, any permanent or temporary
26 injunction, temporary restraining order, or other order, and may award to the plaintiff actual and
27 punitive damages, and may award court costs and reasonable attorney fees to the prevailing
28 party, other than a state agency or commission or a local commission; except that, a prevailing
29 respondent may be awarded reasonable attorney fees only upon a showing that the case was
30 without foundation.

31 3. Any party to any action initiated under this section has a right to a trial by jury.

32 4. The sum of the amount of actual damages, including damages for future pecuniary
33 losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and
34 other nonpecuniary losses, and punitive damages awarded under this section shall not exceed for
35 each complaining party:

36 (1) Actual back pay and interest on back pay; and

37 (2) (a) In the case of a respondent who has more than five and fewer than one hundred
38 one employees in each of twenty or more calendar weeks in the current or preceding calendar
39 year, fifty thousand dollars;

40 (b) In the case of a respondent who has more than one hundred and fewer than two
41 hundred one employees in each of twenty or more calendar weeks in the current or preceding
42 calendar year, one hundred thousand dollars;

43 (c) In the case of a respondent who has more than two hundred and fewer than five
44 hundred one employees in each of twenty or more calendar weeks in the current or preceding
45 calendar year, two hundred thousand dollars; or

46 (d) In the case of a respondent who has more than five hundred employees in each of
47 twenty or more calendar weeks in the current or preceding calendar year, five hundred thousand
48 dollars.

49 5. In any employment-related civil action brought under ~~[this chapter]~~ **sections 213.010**
50 **to 213.137**, the plaintiff shall bear the burden of proving the alleged unlawful decision or action

51 was made or taken because of his or her protected classification and was the direct proximate
52 cause of the claimed damages.

213.126. 1. Whenever the attorney general has a reasonable cause to believe that any
2 person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment
3 of any of the rights granted by this chapter or that any group of persons has been denied any of
4 the rights granted by this chapter, and such denial raises an issue of general public importance,
5 he **or she** may bring a civil action to any appropriate state court by filing with it a complaint
6 setting forth the facts and requesting such preventive relief, including, but not limited to, an
7 application for a permanent or temporary injunction, restraining order, or other order against the
8 person or persons responsible for such pattern or practice or denial of rights, as he **or she** deems
9 necessary to ensure the full enjoyment of the rights granted by this chapter.

10 2. If, at any time following the filing of a complaint alleging violation of one or more of
11 the provisions of sections ~~[213.040]~~ **213.055** to 213.070 **or sections 213.152 to 213.164**, the
12 chairperson determines that prompt judicial action is necessary to carry out the purposes of this
13 chapter, the chairperson may authorize a civil action for appropriate temporary or preliminary
14 relief pending final disposition of the complaint under the provisions of this chapter. Upon
15 receipt of such authorization, the attorney general may commence and maintain an action seeking
16 temporary or preliminary relief of an equitable nature in the circuit court of the county in which
17 the respondent resides or in any county in which respondent conducts business.

18 3. Upon request by the commission, the attorney general shall take appropriate action
19 in circuit court to enforce a subpoena issued by the commission.

20 4. The attorney general may file suit to enforce a settlement or conciliation agreement
21 or any order of the commission referred by the commission or executive director.

213.135. 1. Any local commission authorized under subsection 3 of section 213.020 and
2 certified by the commission as substantially equivalent shall, pursuant to the provisions of this
3 section, have power and authority to hear complaints of violations of this chapter that are alleged
4 to have been committed within the city, town, village or county which created the commission,
5 provided that no complaint against the state of Missouri, including the University of Missouri
6 system, or any official, officer, employee, department, agency, or other agent or servant thereof
7 shall be entertained by a municipal or county commission as authorized in subsection 3 of
8 section 213.020. Such authority may only be exercised in a manner consistent with the
9 provisions of this chapter. In furtherance of the authority granted in this section, local
10 commissions shall be empowered to hold hearings, subpoena witnesses, compel their attendance,
11 administer oaths, to take the testimony of any person under oath, and to require the production
12 for examination of any books, papers or other materials relating to any matter under investigation
13 or in question before the commission.

14 2. Any local commission authorized under subsection 3 of section 213.020 may be
15 empowered by the legislative body of the city, town, village or county it serves to exercise the
16 powers granted in this section, any provision of law, charter or ordinance to the contrary
17 notwithstanding.

18 3. Proceedings before the local commission shall be consistent with the requirements of
19 section 213.075~~[, with the exceptions that]~~ **if the matter relates to unlawful discriminatory**
20 **conduct proscribed in sections 213.010 to 213.137. If the matter relates to conduct**
21 **proscribed under sections 213.150 to 213.188, proceedings shall be consistent with the**
22 **requirements of section 213.167.** In the context of these proceedings, the references to the
23 attorney general therein shall apply to an attorney or counselor for the city, town, village or
24 county, and ~~that~~ contested cases before the local commission shall be heard by a hearing
25 examiner who shall present to the local commission, or to a panel of members thereof, proposed
26 findings of fact, proposed conclusions of law, and a proposed order, or who shall, if the
27 municipal ordinance so provides, render findings of fact, conclusions of law, and an order.
28 Hearings before local commissions shall either be tape recorded or held before a certified court
29 reporter.

30 4. The order of a local commission shall not be final for appeal purposes until filed with
31 and reviewed by a hearing examiner of the commission. The order shall be filed with the
32 commission within thirty days of the date the local commission entered its order. Within fifteen
33 days of the filing of the order the local commission shall transmit the transcript of the hearing
34 previously reduced to writing to the commission. The local commission shall prepare the
35 transcript of the hearing and file with it all exhibits, whether received or rejected, with the
36 commission. The commission hearing examiner shall issue an opinion within ninety days of
37 receipt of the local commission's complete hearing record. Thirty days from the date of issuance
38 of the opinion, the order of the local commission shall become final for purposes of appeal and
39 may be appealed in the same manner as any other decision of the commission as set out in
40 section 213.085 **for matters relating to unlawful discriminatory conduct proscribed under**
41 **sections 213.010 to 213.137, or as set out in section 213.176 for matters relating to conduct**
42 **proscribed under sections 213.150 to 213.188.** If no opinion is issued by the hearing examiner
43 within ninety days, the local commission's decision shall be considered final for purposes of
44 appeal and may be appealed in the same manner as any other decision of the commission as set
45 out in section 213.085 **for matters relating to unlawful discriminatory conduct proscribed**
46 **under sections 213.010 to 213.137, or as set out in section 213.176 for matters relating to**
47 **conduct proscribed under sections 213.150 to 213.188.**

48 5. If no appeal from a final order of a local commission has been filed within thirty days,
49 a petition for enforcement of the order may be filed in the circuit court as provided in section

50 213.085 for matters relating to unlawful discriminatory conduct proscribed under sections
51 213.010 to 213.137, or as set out in section 213.176 for matters relating to conduct
52 proscribed under sections 213.150 to 213.188.

53 6. Local commissions may adopt procedural rules relating to the investigation, settlement
54 and conciliation of complaints and conduct of hearings, provided that such rules and regulations
55 are consistent with the provisions and spirit of this chapter. Such rules and regulations shall be
56 subject to review by the Missouri commission on human rights, and shall not become effective
57 until approved thereby. The commission shall have authority to approve, disapprove, or approve
58 with amendments any local commission rules submitted to it. In the event that the commission
59 approves local commission rules and regulations with amendments, such rules shall become
60 effective when the amendments are adopted by the local commission.

213.150. 1. Sections 213.150 to 213.188 shall be known as the "Missouri Fair
2 Housing Act".

3 2. A function of the commission shall be to encourage fair treatment for and to
4 foster mutual understanding and respect among, and to discourage discrimination in
5 housing against, any racial, ethnic, religious, or other group protected by sections 213.150
6 to 213.188, members of these groups, or persons with disabilities.

7 3. The commission shall have jurisdiction and power to seek to eliminate and
8 prevent discrimination in housing because of race, color, religion, national origin, ancestry,
9 sex, disability, or familial status and take other actions against discrimination because of
10 race, color, religion, national origin, ancestry, sex, disability, or familial status. The
11 commission is hereby given general jurisdiction and power for such purposes.

12 4. The commission shall issue publications and the results of studies and research
13 that will tend to promote goodwill and minimize or eliminate discrimination in housing
14 because of race, color, religion, national origin, ancestry, sex, disability, or familial status.

15 5. The commission shall receive, investigate, initiate, and pass upon complaints
16 alleging discrimination in housing because of race, color, religion, national origin, ancestry,
17 sex, disability, or familial status and require the production for examination of any books,
18 papers, records, or other materials relating to any matter under investigation.

19 6. Any local commission created and established prior to August 13, 1986, by an
20 ordinance adopted by the governing body of any city, constitutional charter city, town,
21 village, or county shall have the power and authority to seek to eliminate and prevent
22 discrimination in housing and to establish related programs, which shall be certified by the
23 commission as substantially equivalent. Such commissions shall be certified in the same
24 manner as in section 213.131. The power and authority of such commissions to initiate and

25 pursue administrative proceedings and remedies shall be solely as provided in section
26 213.135.

27 7. The commission shall establish a human rights fund for the purposes of
28 administering sections 213.152, 213.158, 213.161, and 213.164.

213.151. For purposes of sections 213.150 to 213.188, the following terms and
2 phrases shall mean:

3 (1) "Because" or "because of", as it relates to the adverse decision or action, the
4 protected criterion was a contributing factor;

5 (2) "Commission", the Missouri commission on human rights;

6 (3) "Complainant", a person who has filed a complaint with the commission
7 alleging that another person has engaged in a prohibited discriminatory practice;

8 (4) "Disability", a physical or mental impairment that substantially limits one or
9 more of a person's major life activities, being regarded as having such an impairment, or
10 a record of having such an impairment, which with or without reasonable accommodation
11 does not interfere with occupying the dwelling in question. The term "disability" does not
12 include current illegal use of, or addiction to, a controlled substance, as such term is
13 defined in section 195.010; however, a person may be considered to have a disability if that
14 person:

15 (a) Has successfully completed a supervised drug rehabilitation program and is no
16 longer engaging in the illegal use of, and is not currently addicted to, a controlled substance
17 or has otherwise been rehabilitated successfully and is no longer engaging in such use and
18 is not currently addicted;

19 (b) Is participating in a supervised drug rehabilitation program and is no longer
20 engaging in illegal use of controlled substances; or

21 (c) Is erroneously regarded as currently illegally using, or being addicted to, a
22 controlled substance;

23 (5) "Discrimination", any unfair treatment based on race, color, religion, national
24 origin, ancestry, sex, disability, or familial status;

25 (6) "Dwelling", any building, structure, or portion thereof that is occupied as, or
26 designed or intended for occupancy as, a residence by one or more families, and any vacant
27 land that is offered for sale or lease for the construction or location thereon of any such
28 building, structure, or portion thereof;

29 (7) "Executive director", the executive director of the Missouri commission on
30 human rights;

31 (8) "Familial status", one or more individuals who have not attained the age of
32 eighteen years being domiciled with:

- 33 (a) A parent or another person having legal custody of such individual; or
34 (b) The designee of such parent or other person having such custody, with the
35 written permission of such parent or other person.

36

37 The protections afforded against discrimination on the basis of familial status shall apply
38 to any person who is pregnant or is in the process of securing legal custody of any
39 individual who has not attained the age of eighteen years;

40 (9) "Human rights fund", a fund established to receive civil penalties as required
41 by federal regulations and as set forth by subdivision (2) of subsection 11 of section
42 213.167, and which shall be disbursed to offset additional expenses related to compliance
43 with the Department of Housing and Urban Development regulations;

44 (10) "Local commission", any commission or agency established prior to August
45 13, 1986, by an ordinance or order adopted by the governing body of any city,
46 constitutional charter city, town, village, or county;

47 (11) "Person", includes one or more individuals, corporations, partnerships,
48 associations, organizations, legal representatives, mutual companies, joint stock companies,
49 trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other organized groups
50 of persons;

51 (12) "Rent", includes to lease, to sublease, to let, and otherwise to grant for
52 consideration the right to occupy premises not owned by the occupant;

53 (13) "Respondent", a person who is alleged to have engaged in a prohibited
54 discriminatory practice in a complaint filed with the commission;

55 (14) "Unlawful discriminatory housing practice", any act that is unlawful under
56 sections 213.150 to 213.188.

213.152. 1. It shall be an unlawful discriminatory housing practice:

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

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

9 (3) To make, print, or publish, or cause to be made, printed, or published, any
10 notice, statement, or advertisement with respect to the sale or rental of a dwelling that
11 indicates any preference, limitation, or discrimination based on race, color, religion,

12 national origin, ancestry, sex, disability, or familial status, or an intention to make any such
13 preference, limitation, or discrimination;

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

17 (5) To induce or attempt to induce any person to sell or rent any dwelling by
18 representations regarding the entry or prospective entry into the neighborhood of a person
19 or persons of a particular race, color, religion, national origin, ancestry, sex, disability, or
20 familial status;

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

23 (a) That buyer or renter;

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

26 (c) Any person associated with that buyer or renter;

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

30 (a) That person;

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

33 (c) Any person associated with that person.

34 2. For purposes of this section and sections 213.158 and 213.161, discrimination
35 includes:

36 (1) A refusal to permit, at the expense of the person with the disability, reasonable
37 modifications of existing premises occupied or to be occupied by such person if such
38 modifications may be necessary to afford such person full enjoyment of the premises;
39 except that, in the case of a rental, the landlord may, where it is reasonable to do so,
40 condition permission for a modification on the renter's agreeing to restore the interior of
41 the premises to the condition that existed before the modification, reasonable wear and tear
42 excepted;

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

(3) 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:

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

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

(c) 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.

3. As used in subdivision (3) of subsection 2 of this section, the term "covered multifamily dwelling" means:

(1) Buildings consisting of four or more units if such buildings have one or more elevators; and

(2) Ground floor units in other buildings consisting of four or more units.

4. Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing accessibility and usability for people with physical disabilities, commonly cited as "ANSI A117.1", suffices to satisfy the requirements of paragraph (a) of subdivision (3) of subsection 2 of this section.

5. Where a unit of general local government has incorporated into its laws the requirements set forth in subdivision (3) of subsection 2 of this section, compliance with such laws shall be deemed to satisfy the requirements of that subdivision. Such compliance shall be subject to the following provisions:

(1) A unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of subdivision (3) of subsection 2 of this section are met;

(2) The commission shall encourage, but shall not require, the units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings determinations as to whether the design and

82 construction of such dwellings are consistent with subdivision (3) of subsection 2 of this
83 section and shall provide technical assistance to units of local government and other
84 persons to implement the requirements of subdivision (3) of subsection 2 of this section;

85 (3) Nothing in sections 213.150 to 213.188 shall be construed to require the
86 commission to review or approve the plans, designs, or construction of all covered
87 dwellings to determine whether the design and construction of such dwellings are
88 consistent with the requirements of subdivision (3) of subsection 2 of this section.

89 6. Nothing in sections 213.150 to 213.188 shall be construed to invalidate or limit
90 any law of the state or political subdivision of the state, or other jurisdiction in which
91 sections 213.150 to 213.188 shall be effective, that requires dwellings to be designed and
92 constructed in a manner that affords persons with disabilities greater access than is
93 required by sections 213.150 to 213.188.

94 7. Nothing in this section and sections 213.158 and 213.161 requires that a dwelling
95 be made available to an individual whose tenancy would constitute a direct threat to the
96 health or safety of other individuals or whose tenancy would result in substantial physical
97 damage to the property of others.

98 8. Nothing in this section and sections 213.158 and 213.161 limits the applicability
99 of any reasonable local or state restriction regarding the maximum number of occupants
100 permitted to occupy a dwelling, nor does any provision in this section and sections 213.158
101 and 213.161 regarding familial status apply with respect to housing for older persons.

102 9. (1) As used in this section, "housing for older persons" means housing:

103 (a) Provided under any state or federal program that the commission determines
104 is specifically designed and operated to assist elderly persons as defined in the state or
105 federal program;

106 (b) Intended for, and solely occupied by, persons sixty-two years of age or older;
107 or

108 (c) Intended and operated for occupancy by at least one person fifty-five years of
109 age or older per unit.

110 (2) In determining whether housing qualifies as housing for older persons under
111 this subsection, the commission shall develop regulations that require at least the following
112 factors:

113 (a) The existence of significant facilities and services specifically designed to meet
114 the physical or social needs of older persons or, if the provision of such facilities and
115 services is not practicable, that such housing is necessary to provide important housing
116 opportunities for older persons;

117 (b) That at least eighty percent of the units are occupied by at least one person
118 fifty-five years of age or older per unit; and

119 (c) The publication of, and adherence to, policies and procedures that demonstrate
120 an intent by the owner or manager to provide housing for persons fifty-five years of age
121 or older.

122 10. Housing shall not fail to meet the requirements for housing for older persons
123 by reason of:

124 (1) Persons residing in such housing as of August 28, 1992, who do not meet the age
125 requirements of paragraph (b) or (c) of subdivision (1) of subsection 9 of this section,
126 provided that new occupants of such housing meet the age requirements of paragraph (b)
127 or (c) of subdivision (1) of subsection 9 of this section; or

128 (2) Unoccupied units, provided that such units are reserved for occupancy by
129 persons who meet the age requirements of paragraph (b) or (c) of subdivision (1) of
130 subsection 9 of this section.

131 11. Nothing in this section and sections 213.158 and 213.161 shall prohibit conduct
132 against a person because such person has been convicted by any court of competent
133 jurisdiction of the illegal manufacture or distribution of a controlled substance, as defined
134 by section 195.010.

135 12. Nothing in sections 213.150 to 213.188 shall prohibit a religious organization,
136 association, or society, or any nonprofit institution or organization operated, supervised,
137 or controlled by or in conjunction with a religious organization, association, or society,
138 from limiting the sale, rental, or occupancy of dwellings that it owns or operates for other
139 than a commercial purpose to persons of the same religion, or from giving preference to
140 such persons, unless membership in such religion is restricted on account of race, color, or
141 national origin. Nothing in sections 213.150 to 213.188 shall prohibit a private club not in
142 fact open to the public, which as an incident to its primary purpose or purposes provides
143 lodging that it owns or operates for other than a commercial purpose, from limiting the
144 rental or occupancy of such lodging to its members or from giving preference to its
145 members.

146 13. Nothing in sections 213.150 to 213.188, other than the prohibitions against
147 discriminatory advertising in subdivision (3) of subsection 1 of this section, shall apply to:

148 (1) The sale or rental of any single family house by a private individual owner,
149 provided the following conditions are met:

150 (a) The private individual owner does not own or have any interest in more than
151 three single family houses at any one time; and

(b) The house is sold or rented without the use of a real estate broker, agent, or salesperson or the facilities of any person in the business of selling or renting dwellings and without publication, posting, or mailing of any advertisement. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this section applies to only one such sale in any twenty-four-month period; or

(2) 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 or her residence.

213.155. 1. No declaration or other governing document of a homeowners' association shall include a restrictive covenant in violation of section 213.152.

2. Notwithstanding any other provision of law or provision of the governing documents, the board of directors of a homeowners' association shall amend, without approval of the owners, any declaration or other governing document that includes a restrictive covenant in violation of section 213.152, and shall restate the declaration or other governing document without the restrictive covenant but with no other change to the declaration or governing document.

3. If after providing written notice to a homeowners' association requesting that the association delete a restrictive covenant in violation of section 213.152 and the association fails to delete the restrictive covenant within thirty days of receiving the notice, the Missouri commission on human rights, a city or county in which a common interest development is located, or any person may bring an action against the homeowners' association for injunctive relief to enforce the provisions of subsections 1 and 2 of this section. The court may award attorney's fees to the prevailing party.

213.158. It shall be unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance because of race, color, religion, national origin, ancestry, sex, disability, or familial status to a person applying therefor for the purpose of purchasing, construction, improving, repairing, or maintaining a dwelling, or to discriminate against him or her in fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, national origin, ancestry, sex, disability, or familial status of such person or of any person associated with him or her in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants, of the dwellings in relation to which such loan or other financial assistance is to be made or given.

213.161. It shall be unlawful to deny any person access to or membership or
2 participation in any multiple listing service, real estate brokers' organization, or other
3 service organization, or facility relating to the business of selling or renting dwellings,
4 because of race, color, religion, national origin, ancestry, sex, disability, or familial status.

213.164. It shall be an unlawful discriminatory housing practice:

2 (1) To aid, abet, incite, compel, or coerce the commission of acts prohibited under
3 sections 213.150 to 213.188 or to attempt to do so;

4 (2) To retaliate or discriminate in any manner against any other person because
5 such person has opposed any practice prohibited by sections 213.150 to 213.188 or because
6 such person has filed a complaint, testified, assisted, or participated in any manner in any
7 investigation, proceeding, or hearing conducted in accordance with sections 213.150 to
8 213.188;

9 (3) For the state or any political subdivision of this state to discriminate in housing
10 on the basis of race, color, religion, national origin, sex, ancestry, disability, or familial
11 status; or

12 (4) To discriminate in any manner against any other person because of such
13 person's association with any person protected by sections 213.150 to 213.188.

213.167. 1. Any person claiming to be aggrieved by an unlawful discriminatory
2 housing practice may make, sign, and file with the commission a verified complaint in
3 writing, within one hundred eighty days of the alleged act of discrimination, which shall
4 state the name and address of the person alleged to have committed the unlawful
5 discriminatory housing practice and which shall set forth the particulars thereof and such
6 other information as may be required by the commission. The complainant's agent,
7 attorney, or the attorney general may, in like manner, make, sign, and file such complaint.

8 2. Any complaint that is filed with a federal agency with which the commission has
9 a work-sharing or deferral agreement, or with a local commission that has been certified
10 as substantially equivalent by the commission, shall be deemed filed with the commission
11 on the date that such complaint is received by such federal agency or local commission. A
12 copy of all complaints filed with a local commission with the authority to enforce the
13 provisions of sections 213.150 to 213.188 shall be forwarded to the commission within seven
14 days of the filing thereof with such local commission. If a local commission has jurisdiction
15 to hear a complaint filed with the commission, such complaint shall be deemed to have
16 been filed with the local commission on the date on which such complaint was filed with
17 the commission. The commission shall, within seven days of the receipt of a complaint that
18 a local commission has jurisdiction to hear, forward a copy thereof to such local
19 commission.

20 3. After the filing of any complaint, the executive director shall, with the assistance
21 of the commission's staff, promptly investigate the complaint, and if the director
22 determines after the investigation that probable cause exists for crediting the allegations
23 of the complaint, the executive director shall immediately endeavor to eliminate the
24 unlawful discriminatory housing practice complained of by conference, conciliation, and
25 persuasion, and shall report the results to the commission. The investigation,
26 determination of probable cause, and conciliation shall be conducted according to such
27 rules, regulations, and guidelines as the commission shall prescribe.

28 4. A person who is not named as a respondent in a complaint, but who is identified
29 as a respondent in the course of investigation, may be joined as an additional or substitute
30 respondent upon written notice, under such rules, regulations, and guidelines as the
31 commission shall prescribe. Such notice, in addition to complying with the requirements
32 of such rules, regulations, and guidelines, shall also state the reason why the person to
33 whom the notice is addressed has been joined as a party.

34 5. In case of failure to eliminate such discriminatory practice as found in the
35 investigation, if in the judgment of the chairperson of the commission circumstances so
36 warrant, there shall be issued and served in the name of the commission a written notice,
37 together with a copy of the complaint, as it may have been amended, requiring the person
38 named in the complaint, hereinafter referred to as "respondent", to answer the charges of
39 the complaint at a hearing, at a time and place to be specified in the notice, before a panel
40 of at least three members of the commission sitting as the commission or before a hearing
41 examiner licensed to practice law in this state who shall be appointed by the executive
42 director and approved by the commission. The place of the hearing shall be in the office
43 of the commission or such other place designated by it; except that, if the respondent so
44 requests, in writing, the hearing shall be held in the county of such person's residence or
45 business location at the time of the alleged unlawful discriminatory housing practice. A
46 copy of the notice shall also be served on the complainants.

47 6. In all cases where a written notice of hearing has been issued and a party has not
48 elected the option to proceed in circuit court as set forth in section 213.170, the procedures
49 set forth for a hearing shall apply.

50 7. The commission shall be a party to the action and shall be represented before the
51 panel or the hearing examiner by the office of the attorney general or, when so delegated
52 by the attorney general, a staff attorney of the commission. Neither the hearing examiner
53 nor any member of the panel shall have participated in the investigation of the complaint.
54 Evidence concerning endeavors at conciliation shall be excluded.

55 8. The respondent may file a written verified answer to the complaint and appear
56 at the hearing, in person or otherwise, with or without counsel, and submit testimony. At
57 the discretion of the hearing examiner or the panel, the complainant may be allowed to
58 intervene, thereby becoming a party to the action with the right to present testimony in
59 person or by counsel, provided the complainant at all times shall be treated as a party for
60 the purpose of discovery and the taking of depositions. The commission or complainant
61 intervenor shall have the power to reasonably and fairly amend any complaint, and the
62 respondent shall have like power to amend any answer. The testimony taken at the
63 hearing shall be under oath and be transcribed.

64 9. In any contested case before the commission, any party may take and use written
65 interrogatories, requests for production of documents and other materials, and requests
66 for admissions, and all other forms of discovery authorized by rules of civil procedure in
67 the same manner, upon, and under the same conditions, and upon the same notice, as is or
68 may hereafter be provided for with respect to the taking and using of written
69 interrogatories, requests for production of documents and other materials, and requests
70 for admissions, and all other forms of discovery authorized by rules of civil procedure in
71 civil actions in the circuit court. The panel or hearing examiner shall have the authority
72 to impose sanctions in the same manner as set forth in the rules of civil procedure.

73 10. The hearing shall be conducted in the manner provided by chapter 536.

74 11. If the case is heard by a panel of the commission, the chairperson of the
75 commission shall select the hearing panel and the presiding officer. The presiding officer
76 shall have full authority to call and examine witnesses, admit or exclude evidence, and rule
77 upon all motions and objections. The panel shall state its findings of fact and conclusions
78 of law, and if, upon all the evidence at the hearing, the panel finds:

79 (1) That a respondent has engaged in an unlawful discriminatory housing practice,
80 the commission shall issue and cause to be served on the respondent an order requiring the
81 respondent to cease and desist from the unlawful discriminatory housing practice. The
82 order shall require the respondent to take such affirmative action as in the panel's
83 judgment will implement the purposes of sections 213.150 to 213.188 including, but not
84 limited to, the extension of full, equal, and unsegregated housing; extension of a
85 commercial real estate loan or other financial assistance; extension or restoration of
86 membership or participation in any multiple listing service or other real estate service
87 organization or facility; payment of actual damages; and the submission of a report of the
88 manner of compliance;

89 (2) That a respondent has engaged or is about to engage in a violation of section
90 213.152, 213.158, 213.161, or 213.164 to the extent that the alleged violation of section

213.164 relates to or involves a violation of one or more of such other sections or relates to or involves the encouraging, aiding, or abetting of a violation of such other sections, the commission may, in addition to the relief provided in subdivision (1) of this subsection, assess a civil penalty against the respondent, for purposes of vindicating the public interest:

(a) In an amount not exceeding two thousand dollars if the respondent has not been adjudged to have violated one or more of the sections enumerated in this subdivision within five years of the date of the filing of the complaint;

(b) In an amount not exceeding five thousand dollars if the respondent has been adjudged to have committed one violation of the sections enumerated in this subdivision within five years of the date on which the complaint is filed;

(c) In an amount not exceeding ten thousand dollars if the respondent has been adjudged to have committed two or more prior violations of the sections enumerated in this subdivision within seven years of the date on which the complaint is filed.

All civil penalties set forth in this subsection shall be paid to the human rights fund.

12. If, upon all the evidence, the panel finds that a respondent has not engaged in any unlawful discriminatory housing practice, the panel shall state its findings of fact and conclusions of law and shall issue and cause to be served on the complainant and respondent an order dismissing the complaint.

13. When the case is heard by a hearing examiner, the examiner shall have all powers described in subdivision (8) of subsection 1 of section 213.030 and subsection 11 of this section for the purpose of the hearing. The hearing examiner shall make findings of fact and conclusions of law and shall recommend to the commission an order granting such relief as provided in subsection 11 of this section or dismissing the complaint as to the respondent as provided in subsection 12 of this section, in accordance with such findings.

14. A panel of at least three members of the commission, sitting as the commission, shall review the record, findings, and recommended order of the hearing examiner. The panel shall thereafter accept or amend the recommended order, which shall become the order of the commission. All orders shall be served on the complainant and respondent, and copies shall be delivered to the attorney general and such other public officers as the commission deems proper.

15. No order of the commission issued in accordance with this section shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser without actual notice of the charge filed under this section.

126 **16. Any person aggrieved by an order of the commission may appeal as provided**
127 **in chapter 536.**

213.170. 1. When a written notice of hearing is issued alleging violation of section
2 **213.152, 213.158, 213.161, or 213.164, a complainant or respondent may elect to have the**
3 **claims asserted in that complaint decided in a civil action under the provisions of this**
4 **section in lieu of a hearing under the provisions of section 213.167. Written notice of an**
5 **election made under this subsection shall be filed with the commission and all parties**
6 **within twenty days of the date on which the written notice of hearing is placed in the mail**
7 **by the commission staff.**

8 **2. Where a party has made an election under the provisions of this section to have**
9 **the claims asserted in a written notice issued by the chairperson decided in a civil action,**
10 **the chairperson shall immediately direct staff attorneys employed by the commission to**
11 **commence and maintain a civil action on behalf of the complainant. Such action shall be**
12 **commenced within thirty days of the election. All expenses of the claimant related to a civil**
13 **action brought under this section shall be paid by the commission.**

14 **3. Any person aggrieved with respect to the issues to be determined in a civil action**
15 **instituted under this section may intervene as of right in a civil action.**

16 **4. In a civil action instituted under this section, if the court finds that an unlawful**
17 **discriminatory housing practice has occurred or is about to occur, the court may grant all**
18 **relief as set forth in section 213.185. If monetary relief is sought for benefit of an aggrieved**
19 **person who is not a party to the civil action, the court shall not award such relief if such**
20 **person has not complied with discovery orders issued by the court.**

21 **5. The commission shall have authority to hire such attorneys as may be necessary**
22 **to perform duties assigned to it under this section.**

213.173. 1. During the period beginning with the filing of a complaint under
2 **section 213.167, and ending with the filing of a charge, setting of a complaint for hearing,**
3 **or dismissal of a complaint under the provisions of that section, the executive director and**
4 **the commission staff shall, to the extent feasible, engage in settlement or conciliation with**
5 **respect to the complaint. Any settlement and conciliation agreement negotiated during**
6 **such period shall be an agreement between the complainant and respondent and shall be**
7 **subject to approval by the executive director. Nothing said or done in the course of**
8 **settlement or conciliation under this section shall be made public or used as evidence in any**
9 **subsequent proceeding under sections 213.150 to 213.188 without the written consent of**
10 **the complainant and respondent.**

11 **2. If a complaint is filed alleging violation of section 213.152, 213.158, 213.161, or**
12 **213.164:**

13 (1) During investigation, the public shall not have access to records relating to the
14 complaint, nor shall any information relating thereto be released to the public;

15 (2) During investigation, the complainant and respondent shall only have access to
16 records they provided until the point at which disclosure is allowed at hearing, or if a
17 request for civil action is made under section 213.185 for a right to or other legal
18 proceedings under federal, state, or local discrimination laws that require disclosure;

19 (3) After closure of a complaint, the public may only have access to the complaint
20 and closure documents by agreement of the complainant and respondent;

21 (4) Excluding a finding of probable cause, after an investigation closure, the
22 complainant and respondent may have access to the investigative file except for sensitive
23 or confidential records and records relating to witnesses who have requested anonymity.
24 With respect to records that the commission has obtained from other government agencies,
25 the commission shall observe any statutory confidentiality provisions imposed on the
26 originating agencies;

27 (5) After failure of conciliation attempts, the complainant and respondent may have
28 access to copies of the investigative file, except for sensitive or confidential records and
29 records relating to witnesses who have requested anonymity;

30 (6) To achieve the purposes of sections 213.150 to 213.188, this subsection shall not
31 apply to disclosure of information to representatives of interested federal, state, or local
32 civil or human rights agencies;

33 (7) Any settlement or conciliation agreement entered into by the complainant and
34 respondent shall be made public unless the parties thereto otherwise agree and the
35 executive director determines that disclosure is not required to further the purposes of
36 sections 213.150 to 213.188.

213.176. 1. All final decisions, settlement agreements, conciliation agreements,
2 findings, rules, and orders of the commission under any provision of sections 213.150 to
3 213.188 shall be in writing. Parties to proceedings shall each be sent a copy of the
4 commission's decision and order in the proceedings.

5 2. Any person who is aggrieved by a final decision, finding, rule, or order of the
6 commission may obtain judicial review by filing a petition in the circuit court of the county
7 of proper venue within thirty days after the mailing or delivery of the notice of the
8 commission's final decision.

9 3. Judicial review shall be in the manner provided by chapter 536, as it may be
10 amended or superseded from time to time. The venue of such cases shall, at the option of
11 the appealing party, be in the circuit court of Cole County or in the county of the appealing
12 party's residence or, if the appealing party is a corporation, domestic or foreign, having

13 a registered office or business office in this state, in the county of its registered office or
14 business office.

15 4. If no proceeding for review is instituted in the circuit court within the time
16 herein prescribed, the commission may obtain an order in a proceeding brought in the
17 circuit court of the county wherein the unlawful discriminatory housing practice that is the
18 subject of the commission's order occurred, or the county wherein any person required in
19 the order to cease and desist from an unlawful discriminatory housing practice, or to take
20 other affirmative action, resides or conducts business. The record on the commission's
21 petition for enforcement shall consist solely of duly certified records of the commission
22 showing that it has jurisdiction over the respondent and that the procedure prescribed by
23 this action has been complied with and containing a certified copy of the commission's
24 order with proof of service. On such a petition, the inquiry of the court shall be limited to
25 a determination of whether the action of the commission is in excess of its statutory
26 authority or jurisdiction and whether the respondent has substantially complied with the
27 order of the commission.

28 5. Where no proceeding for judicial review is filed within the time established
29 under subsection 2 of this section, and the commission has not filed a petition for
30 enforcement of its order in the circuit court, any person entitled to relief may, after the
31 expiration of sixty days from the date of the commission's order, file a petition for
32 enforcement of the commission's decision in a circuit court having proper venue thereof.
33 The contents of the petition and the jurisdiction of the court shall be as set forth in
34 subsection 4 of this section.

35 6. Where a suit for enforcement of a commission order has been filed under either
36 subsection 4 or 5 of this section, the circuit court shall issue its order enforcing the
37 commission decision, unless the party against whom enforcement is sought affirmatively
38 shows that:

39 (1) The court is without jurisdiction or venue;

40 (2) Such commission order violates the provisions of the constitution of this state
41 or of the United States;

42 (3) The commission order is beyond its statutory authority or jurisdiction; or

43 (4) The party has substantially complied with the order of the commission.

44 7. Where the commission deems there has been a breach of the terms or conditions
45 of a settlement agreement or conciliation agreement, the commission shall institute an
46 action in circuit court to enforce the terms of the agreement or to obtain the appropriate
47 remedy for such breach. Nothing in this subsection shall prohibit the parties to such
48 agreement from personally filing suit to enforce this subsection.

213.179. Any person who shall willfully violate an order of the commission issued
2 and served under section 213.167 shall be guilty of a class C misdemeanor.

213.182. The provisions of sections 213.150 to 213.188 shall be construed to
2 accomplish the purposes thereof, and any law inconsistent with any provision of sections
3 213.150 to 213.188 shall not apply. Nothing contained in sections 213.150 to 213.188 shall
4 be deemed to repeal any of the provisions of any law of this state relating to discrimination
5 because of race, color, religion, national origin, sex, ancestry, disability, or familial status.

213.185. 1. If, after the filing of a complaint under section 213.152, 213.158,
2 213.161, or 213.164, and the person aggrieved so requests in writing, the commission shall
3 issue to the person claiming to be aggrieved a letter indicating his or her right to bring a
4 civil action within ninety days of such notice against the respondent named in the
5 complaint. Such an action may be brought in any circuit court in any county in which the
6 unlawful discriminatory housing practice is alleged to have occurred, either before a circuit
7 or associate circuit judge. Upon issuance of this notice, the commission shall terminate all
8 proceedings relating to the complaint. No person may file or reinstate a complaint with the
9 commission after the issuance of a notice under this section relating to the same practice
10 or act. Any action brought in court under this subsection shall be filed within ninety days
11 from the date of the commission's notification letter to the individual but no later than two
12 years after the alleged cause occurred or its reasonable discovery by the alleged injured
13 party.

14 2. Notwithstanding the fact that a person has not filed a complaint with the
15 commission as provided under section 213.167, a person claiming to be aggrieved may
16 bring a civil action in any circuit court in any county in which the unlawful discriminatory
17 housing practice is alleged to have occurred, either before a circuit or associate circuit
18 judge.

19 3. The court may grant as relief, as it deems appropriate, any permanent or
20 temporary injunction, temporary restraining order, or other order, and may award to the
21 plaintiff actual and punitive damages, and may award court costs and reasonable
22 attorney's fees to the prevailing party, other than a state agency or commission or a local
23 commission.

24 4. Notwithstanding subsection 3 of this section to the contrary, a prevailing
25 respondent may be awarded court costs and reasonable attorney's fees only upon a
26 showing that the case is without foundation.

27 5. Any party to an action initiated under this section has a right to a trial by jury.

2 **213.188. Legally permissible actions under section 441.020 are subject to the**
3 **provisions of sections 213.150 to 213.188 only if a primary motive for the section 441.020**
4 **action is not any of the factors listed in section 441.020.**

5 285.575. 1. This section shall be known and may be cited as the “Whistleblower’s
6 Protection Act”.

7 2. As used in this section, the following terms shall mean:

8 (1) “Because” or “because of”, as it relates to the adverse decision or action, the person’s
9 status as a protected person was ~~the~~ a motivating factor;

10 (2) “Employer”, an entity that has six or more employees for each working day in each
11 of twenty or more calendar weeks in the current or preceding calendar year, **and any person**
12 **directly acting in the interest of an employer.** “Employer” shall not include the state of
13 Missouri or its agencies, instrumentalities, or political subdivisions, including but not limited to
14 any public institution of higher education, a corporation wholly owned by the state of Missouri,
15 ~~[an individual employed by an employer,]~~ or corporations and associations owned or operated
16 by religious or sectarian organizations;

17 (3) **"Motivating factor", the employee’s protected classification actually played a**
18 **role in the adverse decision or action and had a determinative influence on the adverse**
19 **decision or action;**

20 (4) “Proper authorities”, a governmental or law enforcement agency, an officer of an
21 employee’s employer, the employee’s supervisor employed by the employer, or the employee’s
22 human resources representative employed by the employer;

23 ~~[(4)]~~ (5) “Protected person”, an employee of an employer who has reported to the proper
24 authorities an unlawful act of his or her employer; an employee of an employer who reports to
25 his or her employer serious misconduct of the employer that violates a clear mandate of public
26 policy as articulated in a constitutional provision, statute, or regulation promulgated under
27 statute; or an employee of an employer who has refused to carry out a directive issued by his or
28 her employer that if completed would be a violation of the law. An employee of an employer
29 is not a protected person if:

30 (a) The employee is a supervisory, managerial, or executive employee or an officer of
31 his or her employer and the unlawful act or serious misconduct reported concerns matters upon
32 which the employee is employed to report or provide professional opinion; or

33 (b) The proper authority or person to whom the employee makes his or her report is the
34 person whom the employee claims to have committed the unlawful act or violation of a clear
35 mandate of public policy[;

32 ~~—— (5) “The motivating factor”, the employee’s protected classification actually played a~~
33 ~~role in the adverse decision or action and had a determinative influence on the adverse decision~~
34 ~~or action].~~

35 3. This section is intended to codify the existing common law exceptions to the at-will
36 employment doctrine and to limit their future expansion by the courts. This section, in addition
37 to ~~[chapter]~~ **chapters** 213 and ~~[chapter]~~ 287, shall provide the exclusive remedy for any and all
38 claims of unlawful employment practices.

39 4. It shall be an unlawful employment practice for an employer to discharge an individual
40 defined as a protected person in this section because of that person’s status as a protected person.

41 5. A protected person aggrieved by a violation of this section shall have a private right
42 of action for actual damages for violations of this section but not for punitive damages.
43 However, if a private right of action for damages exists under another statutory or regulatory
44 scheme, whether under state or federal law, no private right of action shall exist under this
45 ~~[statute]~~ **section**.

46 6. Any party to any action initiated under this section may demand a trial by jury.

47 7. A protected person aggrieved by a violation of this section shall have a private right
48 of action that may be filed in a court of competent jurisdiction. The only remedies available in
49 such an action shall be:

50 (1) Back pay;

51 (2) Reimbursement of medical bills directly related to a violation of this section; and

52 (3) Additionally, if a protected person proves, by clear and convincing evidence, that the
53 conduct of the employer was outrageous because of the employer’s evil motive or reckless
54 indifference to the rights of others, then, such person may receive double the amount awarded
55 under subdivisions (1) and (2) of this subsection, as liquidated damages. In applying this
56 subdivision, the provisions of section 510.263 shall be applied as though liquidated damages
57 were punitive damages and as though the amounts referenced in subdivisions (1) and (2) of this
58 subsection were compensatory damages.

59 8. The court, in addition to the damages set forth in subsection 7 of this section, may
60 award the prevailing party court costs and reasonable attorney fees; except that a prevailing
61 respondent may be awarded reasonable attorney fees only upon a showing that the case was
62 without foundation.

510.265. 1. No award of punitive damages against any defendant shall exceed the
2 greater of:

3 (1) Five hundred thousand dollars; or

4 (2) Five times the net amount of the judgment awarded to the plaintiff against the
5 defendant.

6

7 Such limitations shall not apply if the state of Missouri is the plaintiff requesting the award of
8 punitive damages, or the defendant pleads guilty to or is convicted of a felony arising out of the
9 acts or omissions pled by the plaintiff.

10 2. The provisions of this section shall not apply to civil actions brought under section
11 ~~[213.111]~~ **213.185** that allege a violation of section ~~[213.040, 213.045, 213.050, or 213.070, to~~
12 ~~the extent that the alleged violation of section 213.070 relates to or involves a violation of~~
13 ~~section 213.040, 213.045, or 213.050, or subdivision (3) of subsection 1 of section 213.070 as~~
14 ~~it relates to housing]~~ **213.152, 213.158, 213.161, or 213.164.**

~~[213.040. 1. It shall be an unlawful housing practice:~~

- ~~2 (1) To refuse to sell or rent after the making of a bona fide offer, to refuse~~
~~3 to negotiate for the sale or rental of, to deny or otherwise make unavailable, a~~
~~4 dwelling to any person because of race, color, religion, national origin, ancestry,~~
~~5 sex, disability, or familial status;~~
- ~~6 (2) To discriminate against any person in the terms, conditions, or~~
~~7 privileges of sale or rental of a dwelling, or in the provision of services or~~
~~8 facilities in connection therewith, because of race, color, religion, national origin,~~
~~9 ancestry, sex, disability, or familial status;~~
- ~~10 (3) To make, print, or publish, or cause to be made, printed, or published~~
~~11 any notice, statement or advertisement, with respect to the sale or rental of a~~
~~12 dwelling that indicates any preference, limitation, or discrimination because of~~
~~13 race, color, religion, national origin, ancestry, sex, disability, or familial status,~~
~~14 or an intention to make any such preference, limitation, or discrimination;~~
- ~~15 (4) To represent to any person because of race, color, religion, national~~
~~16 origin, ancestry, sex, disability, or familial status that any dwelling is not~~
~~17 available for inspection, sale, or rental when such dwelling is in fact so available;~~
- ~~18 (5) To induce or attempt to induce any person to sell or rent any dwelling~~
~~19 by representations regarding the entry or prospective entry into the neighborhood~~
~~20 of a person or persons because of a particular race, color, religion, national origin,~~
~~21 ancestry, sex, disability, or familial status;~~
- ~~22 (6) To discriminate in the sale or rental of, or to otherwise make~~
~~23 unavailable or deny, a dwelling to any buyer or renter because of a disability of:~~
 - ~~24 (a) That buyer or renter;~~
 - ~~25 (b) A person residing in or intending to reside in that dwelling after it is~~
~~26 so sold, rented, or made available; or~~
 - ~~27 (c) Any person associated with that buyer or renter;~~
- ~~28 (7) To discriminate against any person in the terms, conditions, or~~
~~29 privileges of sale or rental of a dwelling, or in the provision of services or~~
~~30 facilities in connection with such dwelling, because of a disability of:~~
 - ~~31 (a) That person;~~
 - ~~32 (b) A person residing in or intending to reside in that dwelling after it is~~
~~33 so sold, rented, or made available; or~~

34 ~~_____ (c) Any person associated with that person.~~
35 ~~_____ 2. For purposes of this section and sections 213.045 and 213.050,~~
36 ~~discrimination includes:~~
37 ~~_____ (1) A refusal to permit, at the expense of the person with the disability,~~
38 ~~reasonable modifications of existing premises occupied or to be occupied by such~~
39 ~~person if such modifications may be necessary to afford such person full~~
40 ~~enjoyment of the premises, except that, in the case of a rental, the landlord may,~~
41 ~~where it is reasonable to do so, condition permission for a modification on the~~
42 ~~renter's agreeing to restore the interior of the premises to the condition that~~
43 ~~existed before the modification, reasonable wear and tear excepted;~~
44 ~~_____ (2) A refusal to make reasonable accommodations in rules, policies,~~
45 ~~practices, or services, when such accommodations may be necessary to afford~~
46 ~~such person equal opportunity to use and enjoy a dwelling; or~~
47 ~~_____ (3) In connection with the design and construction of covered~~
48 ~~multifamily dwellings for first occupancy after March 13, 1991, a failure to~~
49 ~~design and construct those dwellings in such a manner that:~~
50 ~~_____ (a) The public use and common use portions of such dwellings are~~
51 ~~readily accessible to and usable by persons with a disability;~~
52 ~~_____ (b) All the doors designed to allow passage into and within all premises~~
53 ~~within such dwellings are sufficiently wide to allow passage by persons with a~~
54 ~~disability in wheelchairs; and~~
55 ~~_____ (c) All premises within such dwellings contain the following features of~~
56 ~~adaptive design:~~
57 ~~_____ a. An accessible route into and through the dwelling;~~
58 ~~_____ b. Light switches, electrical outlets, thermostats, and other environmental~~
59 ~~controls in accessible locations;~~
60 ~~_____ c. Reinforcements in bathroom walls to allow later installation of grab~~
61 ~~bars; and~~
62 ~~_____ d. Usable kitchens and bathrooms such that an individual in a wheelchair~~
63 ~~can maneuver about the space.~~
64 ~~_____ 3. As used in subdivision (3) of subsection 2 of this section, the term~~
65 ~~"covered multifamily dwelling" means:~~
66 ~~_____ (1) Buildings consisting of four or more units if such buildings have one~~
67 ~~or more elevators; and~~
68 ~~_____ (2) Ground floor units in other buildings consisting of four or more units.~~
69 ~~_____ 4. Compliance with the appropriate requirements of the American~~
70 ~~National Standard for Buildings and Facilities providing accessibility and~~
71 ~~usability for people with physical disabilities, commonly cited as "ANSI~~
72 ~~A117.1", suffices to satisfy the requirements of paragraph (a) of subdivision (3)~~
73 ~~of subsection 2 of this section.~~
74 ~~_____ 5. Where a unit of general local government has incorporated into its~~
75 ~~laws the requirements set forth in subdivision (3) of subsection 2 of this section;~~

compliance with such laws shall be deemed to satisfy the requirements of that subdivision. Such compliance shall be subject to the following provisions:

~~(1) A unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of subdivision (3) of subsection 2 of this section are met;~~

~~(2) The commission shall encourage, but may not require, the units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with subdivision (3) of subsection 2 of this section, and shall provide technical assistance to units of local government and other persons to implement the requirements of subdivision (3) of subsection 2 of this section;~~

~~(3) Nothing in this chapter shall be construed to require the commission to review or approve the plans, designs or construction of all covered dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of subdivision (3) of subsection 2 of this section.~~

~~6. Nothing in this chapter shall be construed to invalidate or limit any law of the state or political subdivision of the state, or other jurisdiction in which this chapter shall be effective, that requires dwellings to be designed and constructed in a manner that affords persons with disabilities greater access than is required by this chapter.~~

~~7. Nothing in this section and sections 213.045 and 213.050 requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.~~

~~8. Nothing in this section and sections 213.045 and 213.050 limits the applicability of any reasonable local or state restriction regarding the maximum number of occupants permitted to occupy a dwelling, nor does any provision in this section and sections 213.045 and 213.050 regarding familial status apply with respect to housing for older persons.~~

~~9. As used in this section and sections 213.045 and 213.050, "housing for older persons" means housing:~~

~~(1) Provided under any state or federal program that the commission determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;~~

~~(2) Intended for, and solely occupied by, persons sixty-two years of age or older; or~~

~~(3) Intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the commission shall develop regulations which require at least the following factors:~~

~~(a) 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; and~~

~~(b) That at least eighty percent of the units are occupied by at least one person fifty-five years of age or older per unit; and~~

~~(c) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.~~

~~10. Housing shall not fail to meet the requirements for housing for older persons by reason of:~~

~~(1) Persons residing in such housing as of August 28, 1992, who do not meet the age requirements of subdivision (2) or (3) of subsection 9 of this section, provided that new occupants of such housing meet the age requirements of subdivision (2) or (3) of subsection 9 of this section; or~~

~~(2) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subdivision (2) or (3) of subsection 9 of this section.~~

~~11. Nothing in this section or section 213.045 or 213.050 shall prohibit 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, as defined by section 195.010.~~

~~12. Nothing in this chapter 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, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.~~

~~13. Nothing in this chapter, other than the prohibitions against discriminatory advertising in subdivision (3) of subsection 1 of this section, shall apply to:~~

~~(1) The sale or rental of any single family house by a private individual owner, provided the following conditions are met:~~

~~(a) The private individual owner does not own or have any interest in more than three single family houses at any one time; and~~

~~(b) The house is sold or rented without the use of a real estate broker, agent or salesperson or the facilities of any person in the business of selling or~~

renting dwellings and without publication, posting or mailing of any advertisement. If the owner selling the house does not reside in it at the time of the sale or was not the most recent resident of the house prior to such sale, the exemption in this section applies to only one such sale in any twenty-four-month period; or

(2) 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 or her residence.]

[213.041. 1. No declaration or other governing document of a homeowners' association shall include a restrictive covenant in violation of section 213.040.

2. Notwithstanding any other provision of law or provision of the governing documents, the board of directors of a homeowners' association shall amend, without approval of the owners, any declaration or other governing document that includes a restrictive covenant in violation of section 213.040, and shall restate the declaration or other governing document without the restrictive covenant but with no other change to the declaration or governing document.

3. If after providing written notice to a homeowners' association requesting that the association delete a restrictive covenant in violation of section 213.040, and the association fails to delete the restrictive covenant within thirty days of receiving the notice, the Missouri commission on human rights, a city or county in which a common interest development is located, or any person may bring an action against the homeowners' association for injunctive relief to enforce the provisions of subsections 1 and 2 of this section. The court may award attorney's fees to the prevailing party.

4. The provisions of this section shall become effective on January 1, 2006.]

[213.045. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance because of race, color, religion, national origin, ancestry, sex, disability or familial status to a person applying therefor for the purpose of purchasing, construction, improving, repairing, or maintaining a dwelling, or to discriminate against him in fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, national origin, ancestry, sex, disability, or familial status of such person or of any person associated with him in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants;

13 of the dwellings in relation to which such loan or other financial assistance is to
14 be made or given.]
15

2 [213.050. It shall be unlawful to deny any person access to or
3 membership or participation in any multiple listing service, real estate brokers'
4 organization or other service organization, or facility relating to the business of
5 selling or renting dwellings, because of race, color, religion, national origin,
6 ancestry, sex, disability, or familial status.]

2 [213.076. 1. When a written notice of hearing is issued alleging violation
3 of section 213.040, 213.045, 213.050, or 213.070, to the extent that the alleged
4 violation of section 213.070 relates to or involves violation of one or more of
5 such other sections or relates to or involves the encouraging, aiding or abetting
6 of violation of such sections, a complainant or respondent may elect to have the
7 claims asserted in that complaint decided in a civil action under the provisions
8 of this section in lieu of a hearing pursuant to the provisions of section 213.075.
9 Written notice of an election made pursuant to this subsection shall be filed with
10 the commission and all parties within twenty days of the date on which the
11 written notice of hearing is placed in the mail by the commission staff.

12 2. Where a party has made an election pursuant to the provisions of this
13 section, to have the claims asserted in a written notice issued by the chairperson,
14 decided in a civil action, the chairperson shall immediately direct staff attorneys
15 employed by the commission to commence and maintain a civil action on behalf
16 of the complainant. Such action shall be commenced within thirty days of the
17 election. All expenses of the claimant related to a civil action brought under this
18 section shall be paid by the commission.

19 3. Any person aggrieved with respect to the issues to be determined in a
20 civil action instituted pursuant to this section may intervene as of right in a civil
21 action.

22 4. In a civil action instituted pursuant to this section, if the court finds
23 that an unlawful discriminatory practice has occurred or is about to occur, the
24 court may grant all relief as set forth in section 213.111. If monetary relief is
25 sought for benefit of an aggrieved person who is not a party to the civil action,
26 the court shall not award such relief if such person has not complied with
27 discovery orders issued by the court.

28 5. The commission shall have authority to hire such attorneys as may be
29 necessary to perform duties assigned to it pursuant to this section.]

2 [213.112. Legally permissible actions pursuant to section 441.020 are
3 subject to the provisions of this chapter only if a primary motive for the section
441.020 action is not any of the factors listed in section 441.020.]

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