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97TH CONGRESS  
1ST SESSION

# S. 1670

To amend title VIII of the Act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28 (legislative day, SEPTEMBER 9), 1981

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title VIII of the Act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Equal  
5 Access to Housing Act of 1981".

6 SHORT TITLE FOR 1968 ACT

7 SEC. 2. The Act entitled "An Act to prescribe penalties  
8 for certain acts of violence or intimidation, and for other pur-

1 poses” (Public Law 90-284, approved April 11, 1968) is  
2 amended by inserting immediately after the comma at the  
3 end of the enacting clause, the following: “That this Act may  
4 be cited as the ‘Civil Rights Act of 1968’.”.

5  
6 SHORT TITLE FOR TITLE VIII

7 SEC. 3. Title VIII of the Act entitled “An Act to pre-  
8 scribe penalties for certain acts of violence or intimidation,  
9 and for other purposes” (Public Law 90-284, approved April  
10 11, 1968) is amended by inserting immediately after the  
11 title’s catchline the following:

12 “SHORT TITLE

13 “SEC. 800. This title may be cited as the ‘Equal Access  
14 to Housing Act’.”.

15 AMENDMENTS TO POLICY SECTION

16 SEC. 4. (a) Section 801 of the Act entitled “An Act to  
17 prescribe penalties for certain acts of violence or intimidation,  
18 and for other purposes” (Public Law 90-284, approved April  
19 11, 1968) is amended by striking out “for fair housing” and  
20 inserting in lieu thereof “for equal access to housing”.

21 (b) Section 801 of such Act is amended by adding at the  
22 end thereof the following: “Such a policy means that individ-  
23 uals shall not be denied access to housing which they desire  
24 and can afford, because of race, color, religion, sex, handicap,  
25 or national origin. Such policy does not mean that any partic-  
ular proportion of individuals of a particular race, color, reli-

1 gion, sex, handicap, or national origin will be assured housing  
2 within housing units, neighborhoods, or communities except  
3 as such proportions are the natural result of free housing  
4 choice.”

5 AMENDMENTS TO DEFINITIONS SECTION

6 SEC. 5. Section 802 of the Act entitled “An Act to  
7 prescribe penalties for certain acts of violence or intimidation,  
8 and for other purposes” (Public Law 90-284, approved April  
9 11, 1968) is amended by—

10 (a) striking out subsection (a) and inserting in lieu  
11 thereof the following:

12 “(a) ‘Attorney General’ means the United States Attor-  
13 ney General.”; and

14 (b) adding at the end the following:

15 “(h) ‘Handicap’ means, with respect to a person, a  
16 physical impairment which substantially limits the capacity  
17 to see, hear, or walk unaided or the capacity to live com-  
18 pletely unattended. Such term does not include any alcohol,  
19 drug abuse, or any other impairment which would be a threat  
20 to the safety or the property of others.

21 “(i) ‘Aggrieved person’ includes any person whose bona  
22 fide attempt or bona fide offer to purchase, sell, lease, or  
23 rent, or whose bona fide attempt to obtain financing for a  
24 dwelling has been denied on the basis of race, color, religion,  
25 sex, handicap, or national origin, or made subject to terms of

1 purchase, sale, lease, rental, or acquisition which discrimi-  
2 nate on any such basis.”.

3 DISCRIMINATORY HOUSING PRACTICE AMENDMENTS

4 SEC. 6. (a) Section 804(e) of such Act is amended by  
5 striking out the words “For profit, to” and inserting in lieu  
6 thereof “To”.

7 (b) Section 804 of the Act entitled “An Act to prescribe  
8 penalties for certain acts of violence or intimidation, and for  
9 other purposes” (Public Law 90-284) is amended by adding  
10 at the end the following:

11 “(f)(1) To refuse to sell or rent after the making of a  
12 bona fide offer, or to refuse to negotiate for the sale or rental  
13 of, or otherwise make unavailable or deny a dwelling to any  
14 person because of such handicap of a prospective buyer or  
15 renter or of a person or persons to be occupying a dwelling  
16 with such buyer or renter unless such handicap would pre-  
17 vent a prospective dwelling occupant from conforming to  
18 such rules, policies, and practices as are permitted by para-  
19 graph (2) of this subsection.

20 “(2) To discriminate against any person in the terms or  
21 conditions of sale or rental of a dwelling, or in the provision  
22 of services or facilities in connection therewith, because of a  
23 handicap. For purposes of this subsection, (A) discrimination  
24 shall include: (i) refusal to permit reasonable modifications of  
25 premises occupied, or to be occupied by persons with a handi-

1 cap where such modifications are necessary to afford such  
2 handicapped persons access to premises substantially equal to  
3 that of nonhandicapped persons: *Provided, however,* That  
4 with respect to such premises, such handicapped persons  
5 have agreed to return them to their original condition if re-  
6 quested to do so by the landlord; or (ii) refusal to make rea-  
7 sonable accommodations in existing policies, practices, serv-  
8 ices, or facilities when such accommodations are necessary to  
9 afford handicapped persons enjoyment of dwellings substan-  
10 tially equal to that of nonhandicapped persons; but (B) dis-  
11 crimination shall not include (i) refusal to make alterations in  
12 premises at the expense of sellers, landlords, owners, bro-  
13 kers, building managers, or persons acting on their behalf; (ii)  
14 refusal to make modifications of existing policies, practices,  
15 services or facilities where such modifications would result in  
16 unreasonable inconvenience to other persons; or (iii) refusal to  
17 allow modifications of dwellings which would alter the mar-  
18 ketability or appearance of a dwelling or the manner in which  
19 a dwelling or its environs has been, or is intended to be,  
20 used.”.

21 (c) Subsections (c), (d), and (e) of section 804 and section  
22 806 of such Act are each amended by inserting “handicap”,  
23 immediately after “sex”, each place it appears.

24 (d) Section 805 of such Act is amended by adding at the  
25 end thereof the following: “It shall also be unlawful for any

1 person or other entity whose business includes the appraising  
2 of real property to discriminate in the estimation of the prop-  
3 erty value on the basis of race, color, religion, sex, handicap,  
4 or national origin. It shall not be unlawful for such a person  
5 or other entity to take into consideration or to report to the  
6 person for whom the appraisal is being done all factors rele-  
7 vant to the appraiser's estimate of the fair market value of  
8 the property: *Provided*, That such factors are not used by the  
9 appraiser for the purpose of discriminating or denying rights  
10 guaranteed by this title."

11 (e) Section 807 of such Act is amended by adding at the  
12 end the following: "Nothing in this title shall prohibit any  
13 action unless such action is taken with the intent or purpose  
14 of discriminating against a person on account of race, color,  
15 religion, sex, handicap, or national origin."

16 **ROLE OF THE ATTORNEY GENERAL**

17 **SEC. 7.** Section 808 of the Act entitled "An Act to  
18 prescribe penalties for certain acts of violence or intimidation,  
19 and for other purposes" (Public Law 90-284, approved April  
20 11, 1968) is amended—

21 (1) in subsection (a) by striking out "Secretary of  
22 Housing and Urban Development" and inserting in lieu  
23 thereof "Attorney General";

24 (2) by striking out subsection (b);

1 (3) by redesignating subsections (c), (d), and (e) as  
2 subsections (b), (c), and (d), respectively;

3 (4) in subsection (b) as redesignated by this sec-  
4 tion by striking out—

5 (A) “Secretary” each place it appears and  
6 inserting in lieu thereof “Attorney General”;

7 (B) “Department of Housing and Urban De-  
8 velopment” each place it appears and inserting in  
9 lieu thereof “Department of Justice”;

10 (C) “sections 3105, 3344, 5362, and 7521 of  
11 title 5 of the United States Code” and inserting in  
12 lieu thereof “law”; and

13 (D) “5362” and inserting in lieu thereof  
14 “5372”;

15 (5) in subsection (c) as redesignated by this sec-  
16 tion, by striking out “Secretary” and inserting in lieu  
17 thereof “Attorney General”;

18 (6) in subsection (d) as redesignated by this sec-  
19 tion, by striking out “Secretary of Housing and Urban  
20 Development” and inserting in lieu thereof “Attorney  
21 General”; and

22 (7) by adding at the end the following:

23 “(e)(1) Simultaneously with the promulgation of any  
24 regulation or rule issued for the purpose of compliance with  
25 this title, the Attorney General shall transmit a copy thereof



1 to the Committees on the Judiciary of the House of Repre-  
2 sentatives and the Senate. Such rule or regulation, other  
3 than an emergency rule, shall become effective at the end of  
4 the first period of sixty calendar days of continuous session of  
5 Congress, unless between the date of transmittal and the end  
6 of the sixty-day period, either House of Congress passes a  
7 resolution stating in substance that that House does not ap-  
8 prove of the proposed rule or regulation.

9       “(2) Either House of Congress may adopt a resolution  
10 directing agency reconsideration of a rule other than an  
11 emergency rule. If such resolution is adopted within sixty  
12 calendar days of continuous session of Congress after the  
13 date the rule was transmitted to Congress, the rule shall not  
14 go into effect. The agency shall reconsider the rule and take  
15 such action as they deem appropriate.

#### 16                               EDUCATION AND CONCILIATION

17       SEC. 8. Section 809 of the Act entitled “An Act to  
18 prescribe penalties for certain acts of violence or intimidation,  
19 and for other purposes” (Public Law 90-284, approved April  
20 11, 1968) is amended by—

21               (1) striking out “Secretary” each place it appears  
22               and inserting in lieu thereof “Attorney General”;

23               (2) striking out “Secretary’s” and inserting in lieu  
24               thereof “Attorney General’s”; and

1 (3) adding at the end thereof the following sen-  
2 tence: "Nothing in this section shall authorize any pay-  
3 ment of funds to any organization or entity formed by  
4 or pursuant to any agreements entered into under this  
5 section."

6 ENFORCEMENT CHANGES

7 SEC. 9. The Act entitled "An Act to prescribe penalties  
8 for certain acts of violence or intimidation, and for other pur-  
9 poses" (Public Law 90-284, approved April 11, 1968) is  
10 amended by—

11 (1) redesignating sections 815 through 819 as sec-  
12 tions 816 through 820, respectively; and

13 (2) striking out sections 810 through 815 and in-  
14 serting in lieu thereof the following:

15 "PRELIMINARY MATTERS OF ENFORCEMENT

16 "SEC. 810. (a) Whenever an aggrieved person, or the  
17 United States Attorney General on the Attorney General's  
18 own initiative, files a charge alleging a discriminatory hous-  
19 ing practice, the Attorney General shall serve a notice of the  
20 alleged discriminatory housing practice on the party charged  
21 (hereinafter in this title referred to as the 'respondent') within  
22 ten days after such filing, and shall make an investigation  
23 thereof. Upon receipt of such charge, the Attorney General  
24 shall serve notice upon the aggrieved person acknowledging  
25 receipt of the charge and advising the aggrieved person of the

1 time limits and alternative means of enforcement provided  
2 under this title. Such charge shall be in writing, under oath  
3 or affirmation, and shall contain such information and be in  
4 such form as the Attorney General may require, including  
5 detailed information regarding: (1) specific discriminatory  
6 practices alleged; (2) the dates of such alleged practices; (3)  
7 the names of parties involved; and (4) other relevant facts.  
8 An aggrieved person shall file a charge under this section  
9 with the Attorney General not later than six months after  
10 the alleged discriminatory housing practice occurred or  
11 terminated.

12       “(b)(1) In connection with any investigation of such  
13 charge, the Attorney General shall, at reasonable times, have  
14 access to, and the right to copy, any information that is rea-  
15 sonably necessary for the furtherance of the investigation.  
16 The Attorney General may issue subpoenas to compel such  
17 access to or the production of such information, or the ap-  
18 pearance of persons, and may issue interrogatories, to the  
19 same extent and subject to the same limitations as would  
20 apply if the subpoenas or interrogatories were issued or  
21 served in aid of a civil action in the United States district  
22 court for the district in which the investigation is taking  
23 place. The Attorney General may administer oaths.

24       “(2) Upon written application to the Attorney General,  
25 a respondent shall be entitled to the issuance of a reasonable

1 number of subpoenas and interrogatories by and in the name  
2 of the Attorney General to the same extent and subject to the  
3 same limitations as subpoenas issued by the Attorney Gener-  
4 al under paragraph (1) of this subsection.

5       “(3) Witnesses summoned by subpoena of the Attorney  
6 General under this title shall be entitled to the same witness  
7 and mileage fees as are witnesses in proceedings in United  
8 States district courts.

9       “(4) The Attorney General or other party at whose re-  
10 quest a subpoena is issued under this title may enforce such  
11 subpoena in appropriate proceedings in the United States dis-  
12 trict court for the district in which the person to whom the  
13 subpoena was addressed resides, was served, or transacts  
14 business.

15       “(5) Any person who willfully fails or neglects to attend  
16 and testify or to answer any lawful inquiry or to produce  
17 records, documents, or other evidence in such person’s power  
18 to do so, in obedience to the subpoena or lawful order of the  
19 Attorney General under this title, shall be fined not more  
20 than \$1,000. Any person who, with intent thereby to mislead  
21 the Attorney General, shall make or cause to be made any  
22 false entry or statement of fact in any report, account,  
23 record, or other document produced pursuant to the Attorney  
24 General’s subpoena or other order, or shall willfully neglect  
25 or fail to make or cause to be made full, true, and correct

1 entries in such reports, accounts, records, or other docu-  
2 ments, or shall willfully mutilate, alter, or by any other  
3 means falsify any documentary evidence, shall be fined not  
4 more than \$1,000.

5 "STATE ENFORCEMENT

6 "SEC. 811. (a) Whenever a charge alleges a discrimina-  
7 tory housing practice within the jurisdiction of a State or  
8 local public agency certified by the Attorney General under  
9 this subsection, the Attorney General shall, within twenty  
10 days after receiving such charge and before taking any action  
11 with respect to such charge, refer such charge to such  
12 agency. The Attorney General shall notify all parties in-  
13 volved of the referral to such agency. The Attorney General  
14 shall, after that referral is made, take no further action with  
15 respect to such charge unless the Attorney General deter-  
16 mines that such agency no longer qualifies for certification.  
17 Wherever a State or local law provides rights and remedies  
18 which are reasonably equivalent to the rights and remedies  
19 provided by this title, the Attorney General shall certify the  
20 appropriate State or local agency administering such law.  
21 Any State or local agency may submit a written request for  
22 certification to the Attorney General. Unless the Attorney  
23 General offers a written objection within ninety days after  
24 such submission, such State or local agency shall be deemed  
25 certified within the meaning of this title. If the Attorney

1 General objects within the prescribed ninety-day period, he  
2 shall provide the State or local agency with an explanation  
3 for his decision and such decision shall be subject to review  
4 by the appropriate United States district court.

5       “(b) The Attorney General shall not require, as a condi-  
6 tion of such certification, that the State or local law enforce-  
7 ment agency agree, to waive, its exclusive authority over  
8 charges alleging discriminatory housing practices.

9                               “CONCILIATION PROCESS

10       “SEC. 812. (a) If the Attorney General concludes, on  
11 the basis of a preliminary investigation of a charge, that  
12 prompt judicial action is necessary to carry out the purposes  
13 of this title, he may seek appropriate temporary or prelimi-  
14 nary relief pending final disposition of such charge. Any tem-  
15 porary restraining order or other order granting preliminary  
16 or temporary relief shall be issued in accordance with rule 65  
17 of the Federal Rules of Civil Procedure.

18       “(b) At any time after the filing of a charge, the Attor-  
19 ney General shall endeavor to resolve such charge by con-  
20 ciliation. If the respondent refuses to participate in the con-  
21 ciliation process, the Attorney General may grant to the ag-  
22 grieved person not more than \$1,000 for legal fees and other  
23 expenses of initiating a civil action under this title against  
24 such respondent. Nothing said or done in the course of the  
25 conciliation process may be made public or used as evidence

1 in a subsequent proceeding under this title without the writ-  
2 ten consent of the persons concerned. Any employee of the  
3 Attorney General who makes public any information in viola-  
4 tion of the immediately preceding sentence shall be fined not  
5 more than \$1,000. The conciliation process may result in a  
6 conciliation agreement. Such agreement may provide for  
7 binding arbitration of the dispute arising from the complaint  
8 or may award appropriate specific relief to the aggrieved  
9 person including damages of not more than \$1,000. The At-  
10 torney General may issue such orders as are necessary to  
11 enforce any conciliation agreement, including, if the Attorney  
12 General has determined that there has been a breach of such  
13 agreement, an order that the breaching party pay to the  
14 other party not more than \$1,000.

15       “(c)(1) If the Attorney General determines, after an in-  
16 vestigation and after initiation of the conciliation process  
17 under this section, that reasonable cause exists to believe a  
18 charge is true, the Attorney General shall file an appropriate  
19 civil action under section 814(b) of this title. Such determina-  
20 tion in the case of a charge filed by an aggrieved person may  
21 not be made later than six months after the date of the filing  
22 of such charge.

23       “(2) After each investigation under this section, the At-  
24 torney General shall provide to each party a copy of the  
25 report of such investigation.

1       “(d) The Attorney General shall not employ the services  
2 of any person or organization, or provide direct or indirect  
3 assistance to any person or organization, to make an offer to  
4 purchase, rent, or obtain financing for a dwelling that is not a  
5 bona fide offer, except where such action is undertaken for  
6 the purpose of verifying a violation of this title which the  
7 Attorney General has reason to believe has occurred.

8                               “PRIVATE ENFORCEMENT

9       “SEC. 813. (a)(1) An aggrieved person may commence a  
10 civil action in an appropriate United States district court or  
11 State court at any time not later than six months after  
12 the alleged discriminatory housing practice occurred or  
13 terminated.

14       “(2) The Attorney General may, upon timely applica-  
15 tion, intervene in such civil action, if he personally certifies  
16 that the case is of general public importance.

17       “(b) Any court, upon application by an aggrieved person  
18 or a respondent, may, in such circumstances as it deems just,  
19 appoint an attorney for such party and may authorize the  
20 commencement or continuation of the action without the pay-  
21 ment of fees, costs, or security.

22       “(c) In a civil action under this section, a court may  
23 award such relief as may be appropriate, including money  
24 damages, equitable and declaratory relief, and punitive dam-  
25 ages not to exceed \$1,000.



1       “(d) It is the sense of the Congress that, except in cases  
2 in which a municipality or State is involved, the use of  
3 United States magistrates should be encouraged to the maxi-  
4 mum extent feasible in order to expedite litigation under this  
5 section.

6               “ATTORNEY GENERAL ENFORCEMENT

7       “SEC. 814. (a) Whenever the Attorney General has rea-  
8 sonable cause to believe that any person or group of persons  
9 is engaged in a pattern or practice of resistance to the full  
10 enjoyment of any of the rights granted by this title, or that  
11 any group of persons has been denied any of the rights  
12 granted by this title and such denial raises an issue of general  
13 public importance, the Attorney General may bring a civil  
14 action in an appropriate United States district court.

15       “(b) The Attorney General may bring a civil action in  
16 an appropriate United States district court to remedy any  
17 discriminatory housing practice with respect to which the At-  
18 torney General has made a finding that reasonable cause  
19 exists under section 812(c)(1) of this title.

20       “(c) The court may award such relief in any civil action  
21 under this section as is authorized in section 813(c) of this  
22 title in cases brought under that section.

23       “(d) The filing of a civil action pursuant to a charge filed  
24 by an aggrieved person under this title by the Attorney Gen-  
25 eral or by any State or local agency shall preclude the filing

1 of a civil action under this title growing out of the same  
2 discriminatory housing practice by such aggrieved person.  
3 The filing of a civil action under this title by an aggrieved  
4 person shall preclude the filing of a civil action under this  
5 title growing out of the same discriminatory housing practice  
6 by the Attorney General or by any State or local agency  
7 pursuant to a charge filed by such aggrieved person.

8       “(e) It is the sense of the Congress that, except in cases  
9 in which a municipality or State is involved, the use of  
10 United States magistrates should be encouraged to the maxi-  
11 mum extent feasible in order to expedite litigation under this  
12 section.

13               “ANCILLARY AND PROCEDURAL MATTERS

14       “SEC. 815. (a) In any action or proceeding under this  
15 title, the court may allow a prevailing party (other than the  
16 United States with respect to attorney fees) reasonable attor-  
17 ney and expert witness fees as part of the costs. The United  
18 States shall be liable for such costs the same as a private  
19 person. Such costs may also be awarded upon the entry of  
20 any interlocutory order which determines substantial rights of  
21 the parties.

22       “(b) Any court in which a proceeding is instituted under  
23 this title shall assign the case for hearing at the earliest prac-  
24 ticable date and cause the case in every way to be expedited.

1       “(c) Any sale, encumbrance, or lease executed before  
 2 the issuance of any order under this title, and involving a  
 3 bona fide purchaser, encumbrancer, or tenant without actual  
 4 notice of the existence of the filing of a charge or civil action  
 5 under this title shall not be affected by such court order.

6       “(d) Any court having jurisdiction of an action brought  
 7 under this title which enters a temporary restraining order or  
 8 other order providing permanent or temporary relief sought  
 9 by the Attorney General may, in such circumstances as it  
 10 deems just, if a violation of this title is not ultimately found,  
 11 enter an order providing reimbursement from the United  
 12 States to the defendant for unavoidable economic losses in-  
 13 curred during the time that the temporary restraining order  
 14 or preliminary or temporary relief was in effect which were a  
 15 direct result of such temporary restraining order or prelimi-  
 16 nary or temporary relief.”.

17       **COOPERATION WITH STATE AND LOCAL AGENCIES**

18       **SEC. 10.** Section 817 as redesignated by section 9 of  
 19 this Act is amended by striking out “Secretary” each place it  
 20 appears and inserting in lieu thereof “Attorney General”.

21       **CONFORMING AMENDMENT TO TITLE IX OF 1968 CIVIL**

22       **RIGHTS ACT**

23       **SEC. 11.** Section 901 of the Act entitled “An Act to  
 24 prescribe penalties for certain acts of violence or intimidation,  
 25 and for other purposes” (Public Law 90-284, approved April

1 11, 1968) is amended by inserting “, handicap (as defined in  
2 section 802 of this Act),” immediately after “sex” each place  
3 it appears.

S. 1670



A BILL

97TH CONGRESS  
1ST SESSION

# S. 570

To amend title VIII of the Act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

FEBRUARY 26 (legislative day, FEBRUARY 16), 1981

Mr. MATHIAS (for himself, Mr. METZENBAUM, Mr. KENNEDY, Mr. WEICKER, Mr. MOYNIHAN, Mr. TSONGAS, Mr. PROXMIRE, Mr. GLENN, Mr. LEAHY, and Mr. BIDEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To amend title VIII of the Act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Fair Hous-  
5 ing Amendments Act of 1981".

1                                   SHORT TITLE FOR 1968 ACT

2           SEC. 2. The Act entitled "An Act to prescribe penalties  
3 for certain acts of violence or intimidation, and for other pur-  
4 poses" (Public Law 90-284, approved April 11, 1968) is  
5 amended by inserting immediately after the comma at the  
6 end of the enacting clause the following: "That this Act may  
7 be cited as the 'Civil Rights Act of 1968'."

8                                   SHORT TITLE FOR TITLE VIII

9           SEC. 3. Title VIII of the Act entitled "An Act to pre-  
10 scribe penalties for certain acts of violence or intimidation,  
11 and for other purposes" (Public Law 90-284, approved April  
12 11, 1968) is amended by inserting immediately after the  
13 title's catchline the following new section:

14                                   "SHORT TITLE

15           "SEC. 800. This title may be referred to as the 'Fair  
16 Housing Act'."

17                                   AMENDMENTS TO DEFINITIONS SECTION

18           SEC. 4. (a) Section 802(f) of the Act entitled "An Act to  
19 prescribe penalties for certain acts of violence or intimidation,  
20 and for other purposes" (Public Law 90-284, approved April  
21 11, 1968) is amended by striking out "section 804, 805, or  
22 806" and inserting "this title" in lieu thereof.

23           (b) Section 802 of such Act is amended by adding at the  
24 end the following:

1       “(h) ‘Handicap’ means, with respect to a person, (1) a  
2 physical or mental impairment which substantially limits one  
3 or more of such person’s major life activities, (2) a record of  
4 having such an impairment, or (3) being regarded as having  
5 such an impairment. Such term does not include any current  
6 alcohol, drug abuse, or any other impairment which would be  
7 a direct threat to property or the safety of others.

8       “(i) ‘Aggrieved person’ includes any person who claims  
9 to have been injured by a discriminatory housing practice or  
10 who believes that he or she will be irrevocably injured by a  
11 discriminatory housing practice that is about to occur.”.

12       DISCRIMINATORY HOUSING PRACTICE AMENDMENTS

13       SEC. 5. (a) The catchline of section 804 of the Act enti-  
14 tled “An Act to prescribe penalties for certain acts of vio-  
15 lence or intimidation, and for other purposes” (Public Law  
16 90-284, approved April 11, 1968) is amended by adding at  
17 the end the following: “AND OTHER PROHIBITED  
18 PRACTICES”.

19       (b) Section 804 of such Act is amended by adding at the  
20 end the following:

21       “(f)(1) To refuse to sell or rent after the making of a  
22 bona fide offer, or to refuse to negotiate for the sale or rental  
23 of, or otherwise make unavailable or deny, a dwelling to any  
24 person because of a handicap of a prospective buyer or renter  
25 or of a person or persons associated with such buyer or

1 renter unless such handicap would prevent a prospective  
2 dwelling occupant from conforming to such rules, policies,  
3 and practices as are permitted by clause (2).

4       “(2) To discriminate against any person in the terms,  
5 conditions, or privileges of sale or rental of a dwelling, or in  
6 the provision of services or facilities in connection therewith,  
7 because of a handicap. For purposes of this subsection, (A)  
8 discrimination shall include: (i) refusal to permit reasonable  
9 modifications of premises occupied or to be occupied, by per-  
10 sons with a handicap when such modifications are necessary  
11 to afford such handicapped persons access to premises sub-  
12 stantially equal to that of nonhandicapped persons, if, with  
13 respect to the rental of premises regularly occupied as a land-  
14 lord’s personal residence, such handicapped persons have  
15 agreed to return such premises to their original condition if  
16 requested to do so by the landlord, or (ii) refusal to make  
17 reasonable accommodations in policies, practices, rules, serv-  
18 ices, or facilities when such accommodations are necessary to  
19 afford handicapped persons enjoyment of dwellings substan-  
20 tially equal to that of nonhandicapped persons; but (B) dis-  
21 crimination shall not include (i) refusal to make alterations in  
22 premises at the expense of sellers, landlords, owners, bro-  
23 kers, building managers, or persons acting on their behalf, (ii)  
24 refusal to make a modification of generally applicable rules,  
25 policies, practices, services or facilities where such modifica-



1 tion would result in unreasonable inconvenience to other af-  
2 fected persons, or (iii) refusal to allow architectural changes  
3 to, or modifications of, dwellings which would materially  
4 alter the marketability of a dwelling or the manner in which  
5 a dwelling or its environs has been, or is intended to be, used.

6 “(g) For any employee or agency of a State or local  
7 government to take any action, or to deny any privilege, li-  
8 cense, or permit, and thereby prevent the establishment of  
9 any community residence operated for the purpose of provid-  
10 ing residential services or supervision for eight or fewer per-  
11 sons who have a handicap, unless such community residence  
12 or its proposed use—

13 “(1) would not meet an established, applicable  
14 Federal, State, or local health, safety, or program  
15 standard; or

16 “(2) violates, or would violate, a comprehensive  
17 land use plan or zoning ordinance for the geographical  
18 area for which the employee or agency has jurisdiction  
19 and such land use plan or zoning ordinance as enforced  
20 would permit the establishment of such community  
21 residence in other equally suitable locations. The  
22 granting or denying of variances in the past shall be  
23 deemed a part of such plan or ordinance.

24 “(h) For a person in the business of insuring against  
25 hazards to refuse to enter into, or to discriminate in the

1 terms, conditions, or privileges of a contract of insurance  
2 against hazards to a dwelling because of the race, color, reli-  
3 gion, sex, handicap, or national origin of persons owning, or  
4 residing in or near, the dwelling.”.

5 (c) Subsections (c), (d), and (e) of section 804, and sec-  
6 tion 806 are each amended by inserting “handicap,” immedi-  
7 ately after “sex,” each place it appears.

8 (d) Section 805 of such Act is amended to read as  
9 follows:

10 “SEC. 805. After the date of enactment of the Fair  
11 Housing Amendments Act of 1981, it shall be unlawful for  
12 any person or other entity whose business includes the  
13 making, purchasing, or insuring of loans, or the selling, bro-  
14 kering, or appraising of real property, to deny or otherwise  
15 make unavailable a loan or other financial assistance which is  
16 for the purpose of purchasing, constructing, improving, re-  
17 pairing, or maintaining a dwelling, or to discriminate in the  
18 fixing of the amount, interest rate, duration, or other terms  
19 or conditions of such loan or other financial assistance, be-  
20 cause of race, color, religion, sex, handicap, or national  
21 origin.”.

22 **FUNCTIONS OF THE SECRETARY**

23 SEC. 6. (a) Section 808(c) of the Act entitled “An Act  
24 to prescribe penalties for certain acts of violence or intima-

1 tion, and for other purposes" (Public Law 90-284, approved  
2 April 11, 1968) is amended—

3 (1) by inserting "(1)" after "(c)";

4 (2) by striking out "hearing, determining, order-  
5 ing," in the first sentence;

6 (3) by striking out the second sentence;

7 (4) by striking out the last sentence; and

8 (5) by adding at the end the following new  
9 paragraph:

10 "(2)(A) There is established the Fair Housing Review  
11 Commission (hereinafter referred to as the 'Commission').  
12 The Commission shall be composed of three members who  
13 shall be appointed by the President, by and with the advice  
14 and consent of the Senate, from among persons who by  
15 reason of training, education, or experience are qualified to  
16 carry out the functions of the Commission under this title.  
17 Not more than two members of the Commission may be  
18 members of the same political party. The President shall des-  
19 ignate one of the members of the Commission to serve as  
20 Chairman.

21 "(B) The term of office of members of the Commission  
22 shall be six years, except that (i) the members of the Com-  
23 mission first taking office shall serve, as designated by the  
24 President at the time of appointment, one for a term of two  
25 years, one for a term of four years, and one for a term of six

1 years, and (ii) a vacancy caused by the death, resignation, or  
2 removal of a member prior to the expiration of the term for  
3 which he was appointed shall be filled only for the remainder  
4 of such unexpired term. A member of the Commission may  
5 be removed by the President for inefficiency, neglect of duty,  
6 or malfeasance in office.

7       “(C) The Chairman shall be responsible on behalf of the  
8 Commission for the administrative operations of the Commis-  
9 sion. The principal office of the Commission shall be in the  
10 District of Columbia. Whenever the Commission deems that  
11 the convenience of the public or of the parties may be pro-  
12 moted or that delay or expense may be minimized, it may  
13 hold hearings or conduct other proceedings at any other  
14 place.

15       “(D) The Commission shall appoint such administrative  
16 law judges and other employees as it deems necessary to  
17 assist in the performance of the Commission’s functions and  
18 to fix their compensation in accordance with the provisions of  
19 chapter 51 and subchapter III of chapter 53 of title 5, United  
20 States Code, relating to classification and General Schedule  
21 pay rates. The assignment, removal, and compensation of ad-  
22 ministrative law judges shall be in accordance with sections  
23 3105, 3344, 5372, and 7521 of such title, and the assign-  
24 ment of administrative law judges to individual cases shall  
25 take place on a fair and impartial basis in accordance with a

1 system established by the Commission. The Commission may  
2 obtain the services of administrative law judges from other  
3 agencies on a reimbursable basis.

4 “(E) For the purpose of carrying out its functions under  
5 this title, two members of the Commission shall constitute a  
6 quorum and official action can be taken only on the affirma-  
7 tive vote of at least two members.

8 “(F) Every official act of the Commission shall be en-  
9 tered of record, and its hearings and records shall be open to  
10 the public. The Commission is authorized to make such rules  
11 as are necessary for the orderly transaction of its proceed-  
12 ings. Proceedings of the Commission shall be in accordance  
13 with chapter 5 of title 5, United States Code.

14 “(G) Not later than 180 days after a majority of the  
15 Commission has taken office, the Commission shall—

16 “(i) promulgate a code of ethics to assure the  
17 independence of administrative law judges employed by  
18 the Commission; and

19 “(ii) promulgate rules of discovery for the orderly  
20 conduct of its proceedings consistent insofar as is prac-  
21 ticable with the Federal Rules of Civil Procedure.

22 “(H) For the purpose of considering an appeal from a  
23 proposed order of an administrative law judge, the Commis-  
24 sion shall sit in review of such decision. The Commission  
25 may approve, reject, or modify, in whole or in part any pro-

1 posed order under section 811 of this title, or may vacate and  
2 remand such order with directions for further proceedings.

3 The Secretary is not authorized to modify any order under  
4 section 811 of this title or any decision of the Commission.

5 “(I) Within thirty days after the issuance of a proposed  
6 order of an administrative law judge, any party may apply to  
7 the Commission for review of such proposed order. Such  
8 order shall not become final until such period of thirty days  
9 has expired, or the Commission has acted on such applica-  
10 tion, if applicable.

11 “(J) Except as otherwise provided in this title, the ad-  
12 ministrative law judges shall be subject to the laws governing  
13 employees in the classified civil service, except that appoint-  
14 ments shall be made without regard to section 5108 of title  
15 5, United States Code. Each administrative law judge shall  
16 receive compensation at a rate not less than that prescribed  
17 for GS-16 under section 5332 of such title.

18 “(K)(i) The Chairman of the Commission shall be com-  
19 pensated at the rate provided for level III of the Executive  
20 Schedule under section 5314 of title 5, United States Code.

21 “(ii) The other members of the Commission shall be  
22 compensated at the rate provided for level IV of the Execu-  
23 tive Schedule under section 5315 of title 5, United States  
24 Code.”

1 (b) Section 808(d) of the Act entitled "An Act to pre-  
 2 scribe penalties for certain acts of violence or intimidation,  
 3 and for other purposes" (Public Law 90-284, approved April  
 4 11, 1968) is amended by inserting "(including any Federal  
 5 agency having regulatory authority over financial institu-  
 6 tions)" after "urban development".

7 (c) Section 808(e)(3) of such Act is amended by insert-  
 8 ing "financial and" immediately before "technical".

9 **ENFORCEMENT CHANGES**

10 **SEC. 7.** The Act entitled "An Act to prescribe penalties  
 11 for certain acts of violence or intimidation, and for other pur-  
 12 poses" (Public Law 90-284, approved April 11, 1968) is  
 13 amended by striking out sections 810 through 815 and in-  
 14 serting in lieu thereof the following:

15 **"ADMINISTRATIVE ENFORCEMENT; PRELIMINARY**

16 **MATTERS**

17 **"SEC. 810. (a)(1)** Whenever an aggrieved person, or the  
 18 Secretary on the Secretary's own initiative, files a charge  
 19 alleging a discriminatory housing practice, the Secretary  
 20 shall serve a notice of the alleged discriminatory housing  
 21 practice on the party charged (hereinafter in this title referred  
 22 to as the 'respondent') within ten days after such filing, and  
 23 shall make an investigation thereof. Upon receipt of such  
 24 charge, the Secretary shall serve notice upon the aggrieved  
 25 person acknowledging receipt of the charge and advising the

1 aggrieved person of the time limits and choice of forums pro-  
2 vided under this title. At any time after the filing of a charge,  
3 the Secretary shall attempt, to the extent feasible, to resolve  
4 such charge by informal methods of conference, conciliation  
5 and persuasion. If both the aggrieved person and the re-  
6 spondent consent to binding arbitration, the Secretary shall  
7 refer such charge to an arbitrator who shall be made avail-  
8 able by the Community Relations Service of the Department  
9 of Justice. Nothing said or done in the course of such infor-  
10 mal endeavors may be made public or used as evidence in a  
11 subsequent proceeding under this title without the written  
12 consent of the persons concerned. Any employee of the Sec-  
13 retary who shall make public any information in violation of  
14 this provision shall be deemed guilty of a misdemeanor and  
15 upon conviction thereof shall be fined not more than \$1,000  
16 or imprisoned not more than one year. Such charges shall be  
17 in writing under oath or affirmation and shall contain such  
18 information and be in such form as the Secretary requires.  
19 An aggrieved person shall file a charge under this section  
20 with the Secretary not later than one year after the alleged  
21 discriminatory housing practice occurred or terminated. The  
22 Secretary may also investigate housing practices to deter-  
23 mine whether charges should be brought under this section.  
24 In consultation with other appropriate Federal agencies, the  
25 Secretary shall issue new rules and regulations to implement



1 the policies, purposes, and provisions of this title within one  
2 hundred and eighty days after the enactment of the Fair  
3 Housing Amendments Act of 1981.

4       “(2)(A) In connection with any investigation of such  
5 charge, the Secretary, at reasonable times, shall have access  
6 to, and the right to copy, any information that is reasonably  
7 necessary for the furtherance of the investigation. The Secre-  
8 tary may issue subpoenas to compel such access to or the  
9 production of such information, or to compel the appearance  
10 of persons, and may issue interrogatories to a respondent to  
11 the same extent and subject to the same limitations as would  
12 apply if the subpoenas or interrogatories were issued or served  
13 in aid of a civil action in the United States district court for  
14 the district in which the investigation is taking place. The  
15 Secretary may administer oaths.

16       “(B) Upon written application to the Secretary, a re-  
17 spondent shall be entitled to the issuance of a reasonable  
18 number of subpoenas by and in the name of the Secretary to  
19 the same extent and subject to the same limitations as sub-  
20 penas issued by the Secretary under subparagraph (A) of this  
21 paragraph.

22       “(C) Witnesses summoned by a subpoena of the Secre-  
23 tary under this title shall be entitled to the same witness and  
24 mileage fees as witnesses in proceedings in United States  
25 district courts.

1       “(D) The Secretary or other party at whose request a  
2 subpena is issued under this title may enforce such subpena  
3 in appropriate proceedings in the United States district court  
4 for the district in which the person to whom the subpena was  
5 addressed resides, was served, or transacts business.

6       “(E) Any person who willfully fails or neglects to attend  
7 and testify or to answer any lawful inquiry or to produce  
8 records, documents, or other evidence, if it is in such person’s  
9 power to do so, in obedience to the subpena or lawful order of  
10 the Secretary under this title, shall be fined not more than  
11 \$1,000 or imprisoned not more than one year, or both. Any  
12 person who, with intent thereby to mislead the Secretary,  
13 shall make or cause to be made any false entry or statement  
14 of fact in any report, account, record, or other document pro-  
15 duced pursuant to the Secretary’s subpena or other order, or  
16 shall willfully neglect or fail to make or cause to be made  
17 full, true, and correct entries in such reports, accounts, rec-  
18 ords, or other documents, or shall willfully mutilate, alter, or  
19 by any other means falsify any documentary evidence, shall  
20 be fined not more than \$1,000 or imprisoned not more than  
21 one year, or both.

22       “(3) Whenever a charge alleges a discriminatory hous-  
23 ing practice within the jurisdiction of a State or local public  
24 agency which has been certified by the Secretary under this  
25 paragraph, the Secretary shall refer such charge to that cer-

1 tified agency before taking any action with respect to such  
2 charge. Except with the consent of such certified agency, the  
3 Secretary, after that referral is made, shall take no further  
4 action with respect to such charge unless the certified agency  
5 has not acted in a timely fashion following the date such  
6 charge was received or unless the Secretary determines that  
7 the certified agency no longer qualifies for certification under  
8 this paragraph. No agency may be certified under this para-  
9 graph unless the Secretary determines that the substantive  
10 rights protected by such agency, the procedures followed by  
11 such agency, the remedies available to such agency, and the  
12 availability of judicial review of such agency's action, are  
13 substantially equivalent to those created by and under this  
14 title. Before making such certification, the Secretary shall  
15 take into account the current practices and past performance,  
16 if any, of such agency. The Secretary shall not require, as a  
17 condition of making such certification or of providing any fi-  
18 nancial or other assistance, that the State or local public  
19 agency agree formally or informally to waive, in whole or in  
20 part, its exclusive processing authority over charges which  
21 allege a discriminatory housing practice that is referred to  
22 the agency.

23       “(4) The Secretary and other Federal agencies having  
24 authority to prevent housing discrimination shall cooperate  
25 and seek to avoid duplication of effort in the exercise of their

1 several authority. The Secretary is authorized to enter into  
2 agreements to permit such other Federal agencies to carry  
3 out the provisions of this paragraph within their respective  
4 jurisdictions. Not later than 180 days after the date of enact-  
5 ment of the Fair Housing Amendments Act of 1981, the Sec-  
6 retary shall enter into agreements with the Comptroller of  
7 the Currency, the Board of Governors of the Federal Re-  
8 serve System, the Board of Directors of the Federal Deposit  
9 Insurance Corporation, the Federal Home Loan Bank Board,  
10 and the National Credit Union Administration Board, to  
11 carry out this paragraph with respect to depository institu-  
12 tions which are subject to the jurisdiction of such agencies.

13     “(b) If the Secretary concludes, after a preliminary in-  
14 vestigation of a charge, that the Secretary is unable to obtain  
15 voluntary compliance and that prompt judicial action is nec-  
16 essary to carry out the purposes of this title, the Secretary  
17 may refer the matter to the Attorney General. The Attorney  
18 General may bring an action for appropriate temporary or  
19 preliminary relief pending final disposition of such charge.  
20 Any temporary restraining order or other order granting pre-  
21 liminary or temporary relief shall be issued in accordance  
22 with Rule 65 of the Federal Rules of Civil Procedure. It  
23 shall be the duty of a court having jurisdiction over proceed-  
24 ings under this paragraph to assign such proceedings for  
25 hearing at the earliest practical date and to cause such pro-

1 ceedings to be in every way expedited. An application for  
2 relief under this paragraph shall not affect the initiation or  
3 continuation of administrative proceedings under this section  
4 and section 811 of this title.

5       “(c)(1) If the Secretary determines, after an investiga-  
6 tion under this section, that reasonable cause exists to believe  
7 the charge is true, the Secretary shall—

8               “(A) file, on behalf of the aggrieved person filing  
9 the charge, a complaint under the procedures provided  
10 under section 811 of this title; or

11               “(B) refer the matter to the Attorney General for  
12 the filing of an appropriate civil action under section  
13 813(b) of this title.

14       “(2) Notwithstanding paragraph (1) of this subsection  
15 the Secretary shall refer charges involving the legality or  
16 validity of any State or local zoning, or other land use law or  
17 ordinance, or any novel issue of law or fact or other compli-  
18 cating factor, as determined by the Secretary, to the Attor-  
19 ney General for appropriate action under section 813(b) of  
20 this title.

21       “(3) After each investigation under this section, the Sec-  
22 retary shall provide to each aggrieved person and each re-  
23 spondent a copy of the report of such investigation.

24       “(d) Neither the Secretary nor any other officer or em-  
25 ployee of the United States may utilize the services of any

1 person, or provide direct or indirect assistance to any individ-  
2 ual or organization, to induce violations of this title (testers),  
3 except where such action is undertaken for the purpose of  
4 verifying a violation of this title which the Secretary has  
5 reason to believe has occurred.

6 "ADMINISTRATIVE ENFORCEMENT; HEARING PROCESS

7 "SEC. 811. (a) Upon filing an administrative complaint,  
8 the Secretary shall cause a copy of such complaint to be  
9 served on the respondent, together with a notice of opportu-  
10 nity for a hearing on the record at a place and time (not less  
11 than thirty days after the service of such complaint) specified  
12 in such notice. On the request of the respondent and with the  
13 consent of all other parties, a hearing may be rescheduled for  
14 a time earlier than the time specified in such notice. Any  
15 resolution of a charge or complaint by means of conciliation  
16 shall require the consent of the person who filed the charge,  
17 and any such resolution following the service of complaint  
18 under this subsection shall also require the approval of the  
19 Secretary. The respondent shall have the right to file an  
20 answer to the administrative complaint, to appear in person  
21 or otherwise and give testimony at a hearing on the record,  
22 and to obtain a reasonable number of subpoenas in the manner  
23 set forth in section 810(a)(2)(B). Any aggrieved person may  
24 be allowed to intervene in the proceeding, to appear in  
25 person or otherwise, to obtain the issuance of a reasonable

1 number of subpoenas in the manner set forth in section 810 of  
2 this title, and to present testimony. After the conclusion of  
3 such hearing, the administrative law judge shall make find-  
4 ings of fact and conclusions of law, and may issue an order  
5 providing for such relief as may be appropriate (including  
6 compensation for out of pocket loss incurred by the aggrieved  
7 person as the result of the discriminatory housing practice),  
8 and may impose a civil penalty of not to exceed \$10,000.  
9 Any order issued under this subsection is subject to review in  
10 accordance with section 808(c) of this title and subsection (c)  
11 of this section.

12       “(b) The findings of fact and conclusions of law made  
13 with respect to a final order issued under subsection (a), to-  
14 gether with a copy of such order, shall be served on each  
15 aggrieved person and each respondent in the proceeding.

16       “(c) Any petition for judicial review of a final order  
17 under subsection (a) shall be filed in the appropriate court of  
18 appeals not later than sixty days after the entry of such final  
19 order. Such judicial review of a final order shall be in the  
20 manner provided under chapter 158 of title 28 of the United  
21 States Code. For the purposes of judicial review of such an  
22 order, any aggrieved person shall be deemed a party in the  
23 administrative proceedings reviewed. The findings of fact  
24 shall be conclusive if supported by substantial evidence in the  
25 record considered as a whole. No objection not urged at the

1 appropriate stage of the administrative hearing process shall  
2 be considered by the court unless the failure or neglect to  
3 urge such objection should be excused because of extraordi-  
4 nary circumstances.

5 “(d)(1) Any person who violates a final order under sub-  
6 section (a) shall be subject to a civil penalty assessed by the  
7 administrative law judge of not more than \$1,000 for each  
8 day during which such violation continues after the date on  
9 which such final order becomes unreviewable.

10 “(2) For the purposes of paragraph (1) of this subsec-  
11 tion, a final order becomes unreviewable—

12 “(A) if a petition for review has not been filed in  
13 the appropriate reviewing court, on the day sixty days  
14 after the entry of such final order; or

15 “(B) on the date on which the last appellate  
16 court’s decision becomes final and not subject to any  
17 further appellate proceeding.

18 “PRIVATE ENFORCEMENT

19 “SEC. 812. (a)(1) An aggrieved person may commence a  
20 civil action in an appropriate United States district court or  
21 State court at any time not later than two years after the  
22 alleged discriminatory housing practice occurred or  
23 terminated.

24 “(2) After an aggrieved person has commenced a civil  
25 action under this section, the Secretary may not commence



1 or continue proceedings toward the issuance of a remedial  
2 order based on such charge.

3       “(3) An aggrieved individual shall not commence a civil  
4 action under this subsection with respect to a charge made by  
5 that individual to the Secretary if the Secretary (or a State or  
6 local agency to which the Secretary refers such charge) has  
7 commenced a hearing on the record with respect to such  
8 charge.

9       “(4) Upon timely application the Attorney General may  
10 intervene in such civil action if the Attorney General certifies  
11 that the case is of general public importance.

12       “(b) Upon application by an aggrieved person any trial  
13 or appellate court may appoint an attorney for such person  
14 and may authorize the commencement or continuation of the  
15 action without the payment of fees, costs, or security if in the  
16 opinion of the court such person is financially unable to bear  
17 the costs of such action.

18       “(c) If, in a civil action under this section, the court  
19 finds that an alleged discriminatory housing practice has oc-  
20 curred, is occurring, or is about to occur, the court shall  
21 award such relief as may be appropriate. Such relief may  
22 include money damages, equitable and declaratory relief, and,  
23 punitive damages.

## 1 "ENFORCEMENT ROLE OF ATTORNEY GENERAL

2 "SEC. 813. (a) Whenever the Attorney General has rea-  
3 sonable cause to believe that any person or group of persons  
4 is engaged in a pattern or practice of resistance to the full  
5 enjoyment of any of the rights granted by this title, or that  
6 any group of persons has been denied any of the rights  
7 granted by this title and such denial raises an issue of general  
8 public importance, the Attorney General may bring a civil  
9 action in an appropriate United States district court.

10 "(b) The Attorney General may bring a civil action in  
11 an appropriate United States district court (1) to enforce any  
12 final order under this title that is referred for enforcement by  
13 the Secretary; (2) to collect any civil penalty assessed under  
14 section 811 of this title; and (3) to remedy any discriminatory  
15 housing practice (A) with respect to which the Secretary has  
16 made a finding that reasonable cause exists under this title  
17 and (B) which the Secretary refers to the Attorney General  
18 for enforcement under this subsection.

19 "(c) The court may award such relief in any civil action  
20 under this section as is authorized in section 812(c) of this  
21 title.

22 "(d) A person may intervene in any civil action com-  
23 menced under this section which involves an alleged discrimi-  
24 natory housing practice with respect to which such person is  
25 an aggrieved person.

1 "ANCILLARY AND PROCEDURAL MATTERS RELATING TO  
2 ENFORCEMENT

3 "SEC. 814. (a) In any action or proceeding under this  
4 title, the court, in its discretion, may allow a prevailing party  
5 (other than the United States with respect to attorney fees)  
6 reasonable attorney and expert witness fees as part of the  
7 costs, and the United States shall be liable for such costs the  
8 same as a private person. Such costs may also be awarded  
9 upon the entry of any interlocutory order which determines  
10 substantial rights of the parties.

11 "(b) In any administrative proceeding based on a charge  
12 under section 810(a) of this title, any prevailing party (other  
13 than the United States with respect to attorney fees) may be  
14 awarded reasonable attorney and expert witness fees as a  
15 part of a final order under section 811(b) of this title.

16 "(c) Any court in which a proceeding is instituted under  
17 this title shall assign the case for hearing at the earliest prac-  
18 ticable date and cause the case to be in every way expedited.

19 "(d) Any sale, encumbrance, or lease executed before  
20 the issuance of any order under this title, and involving a  
21 bona fide purchaser, encumbrancer, or tenant without actual  
22 notice of the existence of the filing of a complaint or civil  
23 action under this title shall not be affected by such court  
24 order.

## 1                                   “EFFECT ON OTHER LAWS

2           “SEC. 815. (a) Nothing in this title shall be construed to  
3 invalidate or limit any law of a State or political subdivision  
4 of a State, or of any other jurisdiction in which this title shall  
5 be effective, that grants, guarantees, or protects the same  
6 rights as are granted by this title; but any such law that  
7 purports to require or permit any action that would be a dis-  
8 criminatory housing practice under this title shall to that  
9 extent be invalid.

10          “(b) Nothing in this title shall be construed to repeal,  
11 supersede or diminish the protection provided to handicapped  
12 persons by any other Federal law.”.

## 13                                   INTERFERENCE, COERCION, OR INTIMIDATION

14          SEC. 8. Section 817 of the Act entitled “An Act to  
15 prescribe penalties for certain acts of violence or intimidation,  
16 and for other purposes” (Public Law 90-284, approved  
17 April 11, 1968) is amended by striking out “section 803,  
18 804, 805, or 806.” and inserting “this title.” in lieu thereof.

## 19                                   CONFORMING AMENDMENT TO TITLE IX OF 1968 CIVIL

## 20                                   RIGHTS ACT

21          SEC. 9. Section 901 of the Act entitled “An Act to  
22 prescribe penalties for certain acts of violence or intimidation,  
23 and for other purposes” (Public Law 90-284, approved April  
24 11, 1968) is amended by inserting “, handicap (as defined in

1 section 802 of this Act),” immediately after “sex” each place  
2 it appears.

3 CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES

4 CODE

5 SEC. 10. (a) Section 2341(3) of title 28, United States  
6 Code, is amended—

7 (1) by striking out “and” at the end of subpara-  
8 graph (B);

9 (2) by striking out the period at the end of sub-  
10 paragraph (C) and inserting “; and” in lieu thereof;  
11 and

12 (3) by inserting the following new subparagraph:

13 “(D) the Commission, when the order was  
14 entered by the Fair Housing Review  
15 Commission.”.

16 (b) Section 2342 of such title is amended—

17 (1) by striking out “and” at the end of paragraph  
18 (5);

19 (2) by striking out the period at the end of para-  
20 graph (6) and inserting “; and” in lieu thereof; and

21 (3) by adding immediately after paragraph (6) but  
22 before the final sentence, the following:

23 “(7) all final orders under section 811 of the Fair  
24 Housing Act.”.

1           **RETROFITTING COST AND NEED STUDY**

2           **SEC. 11. (a)** One year following the fiscal year ending  
3 September 30, 1981, the Architectural and Transportation  
4 Barriers Compliance Board shall provide a report to the Con-  
5 gress concerning—

6           (1) the extent to which architectural barriers and  
7 other obstacles to accessibility of housing are operating  
8 to deny handicapped persons access to a reasonable  
9 housing choice in the private market;

10          (2) the extent to which public, private, or cooper-  
11 ative public and private efforts have been undertaken  
12 to increase housing choice for the handicapped in the  
13 private market; and

14          (3) the projected cost of retrofitting an adequate  
15 supply of existing housing units to make such units  
16 suitable for occupancy by handicapped persons.

17          **(b)** The Board shall include in its report recommenda-  
18 tions concerning further legislative or other action necessary  
19 to provide an adequate private market housing supply for  
20 handicapped persons, including the Board's recommendations  
21 regarding how costs associated with actions should be borne.

22                           **BUDGET AUTHORITY**

23          **SEC. 12.** This Act and the amendments made by this  
24 Act shall not be construed to authorize the enactment of new  
25 budget authority for the fiscal year ending September 30,

- 1 1980. Effective October 1, 1981, there are authorized to be
- 2 appropriated such sums as may be necessary to carry out this
- 3 Act and the amendments made by this Act.

○

ISSUE	S.1670 (Hatch)	S.570 (Mathias)	Other
Discrimin. Standard	Explicit intent standard	No language (perpetuating effects standard adopted by most Federal circuits)	Compromise standard (ala Dole VRA provision); inter standard in some circumstances, effects standard in other circumstances
Enforcement Mechanism	Conciliation process under auspices of Justice Department, with Attorney General authorized to file civil action in district court	Secretary of HUD may file action with ALJ's appointed by a newly established Fair Housing Review Commission with appeal to circuit court	HUD or DOJ authorized to file expedited action with magistrate with appeal to district or circuit court; ALJ process established in HUD or DOJ
Extended Coverage	Includes handicapped within protected categories	Includes handicapped within protected categories	No new coverage
Title & Policy	Equal Access to Housing: explicit statement of policy regarding non-discriminatory (non-social engineering) objectives of Act	Fair Housing Act: no amended statement of policy	
Handicapped Definition	Limits to most seriously handicapped, while excluding alcoholism, drug addiction, and other dangerous handicaps	Broader definition ("substantially limits... major life activities"), while making same exclusions as S.1670	
Aggrieved Persons	Limits to bona fide intended purchasers or renters	Any person who claims to have been injured or who believes that they are likely to be injured	
Property Insurance	No language (perpetuating inapplicability of Act to property insurers)	Property insurance covered	
Appraisals	Extends coverage to property appraisals, but explicitly establishes intent standard for determining appraisal discrim.	Extends coverage to property appraisals, with no language on appropriate standard for determining appraisal discrimination	



ISSUE	S.1670 (Hatch)	S.570 (Mathias)	Other
Handicapped Discrimin.	Strong protections against landlords being required to retrofit housing units, modify significantly internal rules or policies, or tolerate retrofitting of units, in order to avoid charges of discrimination	Weak protections for landlords with respect to these matters	
Handicapped Group Resid.	No language	Limits ability of communities to zone out handicapped group homes	
Rule-Making Authority	Shifts rule-making authority to Attorney General from HUD Secretary, with 1-House veto	Retains rule-making authority in Secretary of HUD	
Outside Contracting	Prohibits payments to outside organizations or entities	No language	
States	Requires referral of complaints to existing State housing anti-discrim. agencies which provide "reasonably equivalent" rights and remedies. Withdrawal of referral only if State agency subsequently falls short of this standard	Requires referral to "substantially equivalent" State agencies, with withdrawal permitted on a case-by-case basis	
Investigs. of Complaint	Provides DOJ with authority to investigate complaints, with respondent entitled to subpoenas as well as AG	Preliminary investigation by Secretary of HUD, with respondent entitled to subpoenas. Binding arbitration option	
Federal Financial Institutions	No language	Requires coordination and cooperation of Federal financial institutions, including Federal Reserve	

ISSUE	S.1670 (Hatch)	S,570 (Mathias)	Other
Injunctions	AG able to seek court injunction for alleged violations	AG able to seek court injunction for alleged violations	
Zoning and Land-Use	Intent standard applies. Use of magistrates encouraged except in zoning/land-use cases	Alleged zoning and land-use violations to be referred by Secretary of HUD to DOJ for action	Exclusion of zoning and land-use matters from scope of the Act
Testers	Prohibits use of testers except to "verify" violations that Secretary has reason to believe have occurred	Similar language as S.1670	
Private Enforcement	6 months statute/limitations AG may intervene in cases of "public importance"	2 year statute/limitations AG may intervene in cases of "public importance"	

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(10/9/81)

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(Mathias)  
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(Railsback)

S. 1670, 97th Cong., 1st Sess.  
(Hatch)

POLICY

1. Would revise the fair housing policy of Title VIII to establish that the policy of Title VIII is to provide "equal access" to housing.

DEFINITIONS

2(a). Section 4 adds to the definition of discriminatory housing practice section 817 of the existing law (prohibitions on harassment and intimidation of persons exercising Title VIII rights), to clarify that complaints may be made to HUD in intimidation cases, and that the strengthened enforcement powers proposed for HUD and Justice could be employed in such cases.

2(b). Section 4 also provides definitions of "conciliation" and "conciliation agreement" in order to facilitate other amendments which increase the prominence of conciliation as a milestone in the enforcement process.

DEFINITIONS

2(a). Would make any unlawful action under the Act a discriminatory housing practice.

DEFINITIONS

2(a). Same as S. 570.

2.

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2(c). Also added is a definition of "respondent," which includes both persons identified by the person aggrieved in the complaint and others identified in the course of investigation as persons who participated in or who were responsible for the alleged illegal practice.

2(d). Defines "aggrieved person" as anyone claiming injury.

2(d). Same as S. 570.

2(d). Requires bona fide offer or attempt to transact, for injury.

SUITS BY HUD

3. Section 5 would augment section 810 by adding procedures permitting HUD-initiated lawsuits for injunctive relief and civil penalties following unsuccessful conciliation.

In addition to technical amendments eliminating some of the specific time requirements for HUD action in complaint processing, section 5 contains an amendment to section 810(b) permitting the Secretary to join additional respondents as parties to a complaint where

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uch persons are identified in  
he course of investigation as  
ppropriate additional or  
ubstitute respondents. (The  
ecretary must provide written  
otice of this action to any  
uch new respondent.)

Section 5 extensively amends  
section 810(d), dividing that  
subsection into six paragraphs:

Paragraph (1) provides for  
authority in the Secretary (or  
in the AG in cases required to  
be referred to the AG by the  
Secretary) to seek temporary or  
preliminary relief in court  
pending final administrative  
disposition of a complaint.

Paragraph (2) provides  
basic authority for suits by the  
Secretary (or AG) where the  
Secretary, within thirty days  
after the notice of a decision  
to resolve, has not secured an  
acceptable conciliation agree-  
ment. If the Secretary wishes  
to sue or to refer the case  
before the expiration of this  
thirty-day period, the Secretary  
must certify to the court (or to  
the Attorney General, in the  
case of a referral) that  
conciliation has been attempted  
and that additional efforts are  
not likely to be availing.

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Paragraph (2) provides for mandatory referral of unsuccessfully conciliated cases to the Attorney General where the respondent is a government, a governmental agency other than a public housing agency, or a political subdivision.

Paragraph (3) authorizes the Secretary, in his or her sole discretion, to refer any other case otherwise within the Secretary's jurisdiction for action by the Attorney General.

Paragraph (4) provides for judicial enforcement of conciliation agreements. The paragraph is explicit on the point that such an action should be in the nature of a suit to enforce a contract -- i.e., the court is not to look behind the agreement to examine the facts leading up to it. However, a special reservation allows the court reviewing an agreement to set it aside or modify it if any provision is "unconscionable or in derogation of the Constitution or laws of the United States."

Paragraph (5) deals with jurisdiction, available relief, and attorney fees.

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Paragraph (6) provides for statute of limitations on enforcement actions filed under section 810 -- eighteen months following the alleged discriminatory housing practice or violation of a conciliation agreement. Note that (following current law) no time limit is imposed on AG actions under section 813.

ADMINISTRATIVE PROCEDURES  
AND AG SUITS

4(a). The Secretary as well as any aggrieved person would be permitted to file a charge and the time limitation for filing a charge with the Secretary would be extended from 180 days to one year. The existing conciliation process also would be revised to provide for binding arbitration where the person aggrieved and the respondent consent.

4(b). Referral of charges to State and local agencies administering laws which the Secretary determines are substantially equivalent in terms of rights and remedies, including the availability of judicial review, to those provided in this Title would be required. Except with the consent of the agency the

ADMINISTRATIVE PROCEDURES  
AND AG SUITS

4(a). The Secretary as well as any aggrieved person would be permitted to file a charge and the time for filing charges by aggrieved persons would be extended from 180 days to one year.

4(b). The process relating to the referral of fair housing charges to State and local agencies administering substantially equivalent fair housing laws would be altered. Unless the Secretary of HUD makes an objection to a State or local fair housing law within 90 days of submission to the Secretary the agency would be

ADMINISTRATIVE PROCEDURES  
AND AG SUITS

4(a). Would remove from the Secretary all authority and responsibility for the administration and enforcement of Title VIII and vest it in the AG. The AG or any person aggrieved could file a charge alleging the occurrence of a discriminatory housing practice. Charges filed by aggrieved persons would still have to be filed within six months of the date the practice occurred or terminated.

4(b). The process for the referral of charges of discrimination in housing to State and local agencies administering substantially equivalent fair housing laws would be changed. Referral of charges would be required where a State or local fair housing law provides rights and remedies for violations which are

6  
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Secretary could take no action on a referred charge unless the agency had not acted in a timely fashion on the charge or unless the Secretary determined the agency no longer qualified for referrals. Also, the Secretary could not require as a condition for referral or for the provision of any financial or other assistance that the State or local agency waive its exclusive right to process charges referred to it by the Secretary.

4(c). The Secretary would be authorized to initiate formal administrative proceedings before ALJs employed by a Fair Housing Review Commission where the Secretary has found reasonable cause to believe the alleged discriminatory practice occurred. Decisions in such cases could provide appropriate relief to the person aggrieved and out-of-pocket losses

considered substantially equivalent. Except with the consent of the certified agency, the Secretary would be unable to take further action on referenced charges unless within 90 days of the referral the agency had not commenced proceedings in the matter.

4(c). The Secretary would be authorized to initiate formal administrative proceedings before an ALJ, employed by the Department of Justice, where the Secretary has found reasonable cause to believe that an alleged discriminatory housing practice has occurred. At the conclusion of the hearing, the ALJ would be empowered to order appropriate relief including the imposition

reasonably equivalent to those provided in Title VIII. Unless the AG objects to the equivalency of a State or local law within 90 days of its submission to him, the law would be considered reasonably equivalent. Judicial review of such objections would be authorized. The AG could take no action on a complaint referred to such States or localities unless he determines that the agency no longer qualifies for certification. In addition, the AG could not, as a condition of recognition, require a State or local agency to waive its exclusive authority over Title VIII charges.



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incurred could include a civil penalty not to exceed \$10,000. Would also establish a detailed system for appeal of ALJ decisions to the Commission and to the U.S. Court of Appeals.

of a civil penalty not to exceed \$10,000. Judicial review of ALJ decisions would be in Federal District Courts and the reviewing court would be required to make a de novo determination of the adequacy of the findings of fact and conclusions of law to which objections are made.

4(d). The time limit for filing private lawsuits would be extended to two years and the appointment of an attorney and the commencement of an action without costs where the person aggrieved is financially unable to bear the cost of the action would be authorized. In such cases the court could award such relief as may be appropriate including compensatory and punitive damages, and equitable and declaratory relief and punitive damages.

4(e). The authority of the AG to file suits would be expanded to include the filing of actions to enforce final orders, collect civil penalties, and remedy any discriminatory housing practice with respect to which the

4(e). Similar to S. 570. However, the award of attorney fees in connection with administrative proceedings would not be specifically authorized. Also, the Secretary's obligation to refer cases to the AG would be

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Secretary had made a finding that reasonable cause exists and which the Secretary referred to the AG. In this regard, the Secretary would be required to refer all charges involving State or local zoning or land use laws or other novel issues to the AG for appropriate action. Courts could award the same relief in these suits as in those brought by private individuals. Private persons who are aggrieved by alleged discriminatory housing practices would be permitted to intervene in these AG civil actions.

4(f). Upon a determination that voluntary compliance is unobtainable and that prompt judicial action is necessary to carry out the purpose of the Title, an action could be brought on behalf of the Secretary to seek preliminary or temporary relief. Courts in their discretion could allow a prevailing party in any suit brought under the Title (other than the U.S. with respect to attorney fees) reasonable attorney and witness fees as part of the costs. Similar fees could be awarded to prevailing parties in administrative hearings.

limited to those involving land use controls. The Secretary would be required to file administrative complaints or refer matters to the AG, in the case of charges by an aggrieved individual, within 270 days of the Secretary's receipt of a charge.

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4(g). Any Federal agency promulgating or repromulgating any compliance rule under Title VIII would be required to submit each proposed and final rule for legislative review. A detailed process leading to resolutions of disapproval or for reconsideration of such rules would be provided.

4(g). Compliance rules and regulations would be submitted to Congress and would be subject to legislative review which could include Resolutions of Disapproval, requiring that the rule or regulation not become effective, or Resolutions Directing Reconsideration, requiring that the agency review and take further appropriate actions before issuing the rule or regulation.

4(h). Where a respondent refuses to participate in the conciliation process the AG could grant the aggrieved person not more than \$1,000 for legal fees and other costs in initiating a civil action against the respondent. In addition, conciliation agreements could provide for binding arbitration of the dispute or appropriate specific relief to the aggrieved person including damages of not more than \$1,000. The AG also would be authorized to seek temporary or preliminary relief where he concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purpose of the Title.

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4(i). Where the AG determines after investigation that reasonable cause exists to believe a charge is true, he is directed to file an appropriate civil action to remedy the discriminatory practice. The independent private right of action for aggrieved persons would be retained. In such actions the court would be authorized to award appropriate relief including money damages, equitable and declaratory relief and punitive damages not to exceed \$1,000. These suits must be filed within six months after the act occurred or terminated or, in the case of a suit brought by the AG based on the complaint of an aggrieved person, six months after the filing of a charge. The AG also would retain his authority to file civil actions in pattern or practice cases.

4(j). Except where municipalities and States are involved, the use of magistrates in all civil actions brought under Title VIII would be encouraged to expedite litigation.

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4(k). Awards of attorney fees and costs to a prevailing party would be authorized (except to the U.S. with respect to attorney fees). Also a court, in circumstances it deems just, could provide reimbursement from the U.S. to a respondent for unavoidable economic losses incurred during the time preliminary or temporary relief was ordered where a violation of the Title is not ultimately found.

#### HUD COURT REPRESENTATION

5. Section 6 provides for representation of the Secretary in court by the HUD General Counsel. There is an exception for Supreme Court litigation, and the provision for HUD representation is made "subject to" the earlier provisions calling for referrals to the AG of certain cases.

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EXPANDED PRIVATE LITIGATION

6. Section 7 amends sections 812(a) and (c) of the present law -- the private litigation provisions.

Section 812(a) is amended to:

1. extend the statute of limitations for private actions from 180 days to two years (see para. 4(d), S. 570);

2. clarify that a private action may be filed whether or not a complaint has been filed with the Secretary, and without regard to the status of such a complaint;

3. make explicit the aggrieved person's separate cause of action to enforce the terms of a conciliation agreement.

Other features of present section 812(a) are retained without substantive change. (Section 812(b) is also undisturbed.)

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Revised section 812(c) makes two changes. The dollar limit on punitive damages is removed -- leaving the amount of such damages to the discretion of the court -- and the attorney's fee clause is adjusted to follow the format of the Civil Rights Attorney's Fee Awards Act, 42 U.S.C. §1988. (A comparable attorney's fee provision appears in amended section 810(d).)

DISCRIMINATION AGAINST  
HANDICAPPED

7(a). Would make discriminatory housing practices based on handicap unlawful by inserting the word handicap after the word sex in sections 804, 805 and 806 of Title VIII.

7(b). Handicap defined as (1) a physical or mental impairment substantially limiting one or more major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment.

DISCRIMINATION AGAINST  
HANDICAPPED

7(a). Similar to S. 570.

7(b). Same as S. 570.

DISCRIMINATION AGAINST  
HANDICAPPED

7(a). Similar to revisions proposed in S. 570.

7(b). Would define handicap as meaning a physical impairment which limits the capacity to see, hear or walk unaided or the capacity to live completely unattended.

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7(c). Would make it unlawful to refuse to sell or rent a dwelling to a person after a bona fide offer or to refuse to negotiate or to otherwise make unavailable a dwelling because of that person's handicap or the handicap of a person residing with that person unless the handicap would prevent the person from complying with nondiscriminatory rules and policies. In addition, it would be unlawful to discriminate in the terms or conditions for a sale or rental or in the provision of services or facilities in connection therewith based on handicap.

7(d). Similar to H.R. 1973 except that an agreement by a handicapped person to restore a dwelling to its original condition could be required only in a building in which the landlord occupies a unit as his principal residence.

7(d). Discrimination would include a refusal to permit reasonable modifications, provided the handicapped person agrees to return rental property to its original condition if requested by the landlord, or to make reasonable accommodations in policies, rules, services or facilities necessary to afford handicapped persons substantially equal access to that of nonhandicapped persons. This provision would also state that discrimination does not include refusal to make alterations at

7(d). It would not be discriminatory to refuse to allow modifications to a dwelling which would alter the marketability of a dwelling or its appearance or the manner in which a dwelling or its environment has been or is intended to be used.



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the expense of the owner, renter or broker or refusals to make modifications to generally applicable rules, policies, facilities or services where such modifications would result in unreasonable inconvenience to other persons.

7(e). Would prohibit discrimination by State and local government regarding actions taken to prevent the establishment of residences providing residential services or supervision of eight or fewer handicapped persons unless the residence or its use would not meet health, safety or program requirements or would not comply with land use plans or zoning ordinances within its jurisdiction. Would also require the Architectural and Transportation Barriers Compliance Board to report to Congress in one year on retrofitting costs and needs based on the requirement of the bill.

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INTENT REQUIREMENT

8. Would provide that intent to discriminate against a class of persons protected would be necessary to establish a violation of Title VIII in connection with minimum lot size requirements.

INTENT REQUIREMENT

8. Would state that nothing in Title VIII would prohibit any action unless that action is taken with the intent or purpose of discriminating against a person.

LAND USE CONTROL CASES

9. Would require the Secretary of HUD to refer all cases involving land use controls to the AG.

LAND USE CONTROL CASES

9. The referral requirement would apply after completion of an investigation and a determination by the Secretary that reasonable cause exists to believe a charge is true.

DISCRIMINATORY FINANCING

10. Would clarify the prohibition against discrimination in connection with financing in the existing Title and revise the section to provide that it is unlawful in the provision of property insurance and in the appraisal or real property to deny or

DISCRIMINATORY FINANCING

10. Same as S. 570, but would also state that notwithstanding any other provision of Title VIII it is not a violation for a person in the business of furnishing appraisals to take into consideration factors other than race, color, religion, national origin, sex or handicap.

DISCRIMINATORY FINANCING

10. Does not revise the substance of the existing prohibition against discrimination in financing. However, would add at the end of the provision language making it unlawful for a person or entity whose business includes appraisal of real property value to discriminate in the

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otherwise make unavailable a loan or other financial assistance with respect to a dwelling or to discriminate in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance on a prohibited basis.

estimation of property value on the basis of race, color, religion, sex, handicap or national origin. The bill would further provide that it is not unlawful for such person or entity to report to the person requesting the appraisal all factors relevant to the appraiser's estimate of fair market value provided such factors are used by the appraiser for the purpose of discriminating or denying rights granted by the Title. There is no revision regarding property insurance activities.

#### CIVIL ACTION FILING TIME

11. Section 9 provides that the new enforcement powers set out in the bill shall be applicable to pending complaints, and provides that the bill's revised time requirements shall not be construed to shorten the time for filing a civil action with regard to complaints filed before the Amendments Act's effective date. This latter provision is necessary because, under court decisions, some complainants have been permitted to file suits very late where the Secretary's case-closing letter was received beyond the 180-day statutory filing period.