

HOUSE BILL NO. HB0267

Wyoming Fair Housing Act.

Sponsored by: Representative(s) Esquibel, Goggles, Morgan and Petersen and Senator(s) Burns, Job, Mockler and Vasey

A BILL

for

1 AN ACT relating to housing discrimination; defining
2 prohibited practices; providing for conciliation and
3 hearings; providing penalties; and providing for an
4 effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 40-23-101 through 40-23-145 are
9 created to read:

10

11 **40-23-101. Short title.**

12

13 This act may be cited as the "Wyoming Fair Housing Act."

14

15 **40-23-102. Definitions.**

16

1 (a) As used in this act:

2

3 (i) "Aggrieved person" includes any person who
4 claims to have been injured by a discriminatory housing
5 practice or believes that the person will be injured by a
6 discriminatory housing practice that is about to occur;

7

8 (ii) "Complainant" means a person, including the
9 enforcing authority that files a complaint under W.S.
10 40-23-118;

11

12 (iii) "Conciliation" means the informal
13 negotiations among an aggrieved person, the respondent, and
14 the enforcing authority to resolve issues raised by a
15 complaint or by the investigation of the complaint;

16

17 (iv) "Conciliation agreement" means a written
18 agreement resolving the issues in conciliation;

19

20 (v) "Disability" means a mental or physical
21 impairment that substantially limits at least one (1) major
22 life activity, a record of this impairment, or being
23 regarded as having this impairment. The term does not
24 include current illegal use or addiction to any drug or

1 illegal or federally controlled substance and does not
2 apply to an individual because of an individual's sexual
3 orientation or because that individual is a transvestite;

4

5 (vi) "Discriminatory housing practice" means an
6 act prohibited by W.S. 40-23-103 through 40-23-109 or
7 conduct that is an offense under W.S. 40-23-145;

8

9 (vii) "Dwelling" means any structure or part of
10 a structure that is occupied as, or designed or intended
11 for occupancy as, a residence by one (1) or more families
12 or vacant land that is offered for sale or lease for the
13 construction or location of a structure or part of a
14 structure as previously described;

15

16 (viii) "Enforcing authority" means the attorney
17 general of Wyoming;

18

19 (ix) "Familial status" means one (1) or more
20 minors being domiciled with a parent or another person
21 having legal custody of the minor or minors, or the
22 designee of the parent or other person having such custody
23 with the written permission of the parent or other person.

24 The protections afforded against discrimination on the

1 basis of familial status apply to any person who is
2 pregnant or is in the process of securing legal custody of
3 any minor;

4

5 (x) "Family" includes a single individual;

6

7 (xi) "Respondent" means a person accused of a
8 violation of this chapter in a complaint of discriminatory
9 housing practice or a person identified as an additional or
10 substitute respondent under W.S. 40-23-121 or an agent of
11 an additional or substitute respondent;

12

13 (xii) "To rent" includes to lease, sublease, or
14 let, or to grant in any other manner, for a consideration,
15 the right to occupy premises not owned by the occupant.

16

17 **40-23-103. Sale or rental.**

18

19 (a) A person may not refuse to sell or rent, after
20 the making of a bona fide offer, refuse to negotiate for
21 the sale or rental of, or in any other manner make
22 unavailable or deny a dwelling to an individual because of
23 race, color, religion, sex, disability, familial status, or
24 national origin.

1

2 (b) A person may not discriminate against an
3 individual in the terms, conditions, or privileges of sale
4 or rental of a dwelling or in providing services or
5 facilities in connection with a sale or rental of a
6 dwelling because of race, color, religion, sex, disability,
7 familial status or national origin.

8

9 (c) This section does not prohibit discrimination
10 against an individual because the individual has been
11 convicted under federal law or the law of any state of the
12 illegal manufacture or distribution of a controlled
13 substance.

14

15 **40-23-104. Publication.**

16

17 A person may not make, print or publish or effect the
18 making, printing or publishing of a notice, statement or
19 advertisement that is about the sale or rental of a
20 dwelling and that indicates any preference, limitation or
21 discrimination or the intention to make a preference,
22 limitation or discrimination because of race, color,
23 religion, sex, disability, familial status or national
24 origin.

1

2 **40-23-105. Inspection.**

3

4 A person may not represent to an individual because of
5 race, color, religion, sex, disability, familial status or
6 national origin that a dwelling is not available for
7 inspection for sale or rental when the dwelling is
8 available for inspection.

9

10 **40-23-106. Entry into neighborhood.**

11

12 A person may not, for profit, induce or attempt to induce
13 another to sell or rent a dwelling by representations
14 regarding the entry or prospective entry into a
15 neighborhood of an individual of a particular race, color,
16 religion, sex, disability, familial status or national
17 origin.

18

19 **40-23-107. Disability.**

20

21 (a) A person may not discriminate in the sale or
22 rental of, or make unavailable or deny, a dwelling to any
23 buyer or renter because of a disability of:

24

1 (i) The buyer or renter;

2

3 (ii) An individual residing in or intending to
4 reside in that dwelling after it is sold, rented, or made
5 available; or

6

7 (iii) Any individual associated with the buyer
8 or renter.

9

10 (b) A person may not discriminate against an
11 individual in the terms, conditions or privileges of sale
12 or rental of a dwelling or in the provision of services or
13 facilities in connection with the dwelling because of a
14 disability of:

15

16 (i) That individual;

17

18 (ii) An individual residing in or intending to
19 reside in that dwelling after it is sold, rented, or made
20 available; or

21

22 (iii) Any individual associated with that
23 individual.

24

1 (c) In this section, discrimination includes:

2

3 (i) A refusal to permit, at the expense of the
4 individual having a disability, a reasonable modification
5 of existing premises occupied or to be occupied by the
6 individual if the modification may be necessary to afford
7 the individual full enjoyment of the premises, except that,
8 in the case of a rental, the landlord may condition, when
9 it is reasonable to do so, permission for a modification on
10 the renter agreeing to restore the interior of the premises
11 to the condition that existed before the modification,
12 reasonable wear and tear excepted;

13

14 (ii) A refusal to make a reasonable
15 accommodation in rules, policies, practices or services if
16 the accommodation may be necessary to afford the individual
17 equal opportunity to use and enjoy a dwelling; or

18

19 (iii) The failure to design and construct a
20 covered multifamily dwelling in a manner that allows the
21 public use and common use portions of the dwellings to be
22 readily accessible to and usable by individuals having a
23 disability, that allows all doors designed to allow passage
24 into and within all premises within the dwellings to be

1 sufficiently wide to allow passage by an individual who has
2 a disability and who is in a wheelchair, and that provides
3 all premises within the dwellings contain the following
4 features of adaptive design:

5

6 (A) An accessible route into and throughout
7 the dwelling;

8

9 (B) Light switches, electrical outlets,
10 thermostats, and other environmental controls in accessible
11 locations;

12

13 (C) Reinforcements in bathroom walls to
14 allow later installation of grab bars; and

15

16 (D) Kitchens and bathrooms that are usable
17 and have sufficient space in which an individual in a
18 wheelchair can maneuver.

19

20 (d) Compliance with the appropriate requirements of
21 the American national standard for buildings and facilities
22 providing accessibility and usability for individuals
23 having physical disabilities, commonly cited as "ANSI A

1 117.1 (1986)", satisfies the requirements of adaptive
2 design in paragraph (c)(iii) of this section.

3

4 (e) The adaptive design requirements of subparagraph
5 (c)(iii)(A) of this section do not apply to a building the
6 first occupancy of which occurred on or before March 13,
7 1991.

8

9 (f) This section does not require a dwelling to be
10 made available to an individual whose tenancy would
11 constitute a direct threat to the health or safety of other
12 individuals whose tenancy would result in substantial
13 physical damage to the property of others.

14

15 (g) Covered multifamily dwellings are buildings
16 consisting of four (4) or more units if the buildings have
17 one (1) or more elevators and ground floor units in other
18 buildings consisting of four (4) or more units.

19

20 **40-23-108. Residential real estate related**
21 **transaction.**

22

23 A person whose business includes engaging in residential
24 real estate related transactions may not discriminate

1 against an individual in making a real estate related
2 transaction available or in the terms or conditions of a
3 real estate related transaction because of race, color,
4 religion, sex, disability, familial status or national
5 origin. A residential real estate related transaction is
6 the selling, brokering or appraising of residential real
7 property or the making or purchasing of loans or the
8 provision of other financial assistance to purchase,
9 construct, improve, repair, maintain a dwelling, or to
10 secure residential real estate. Nothing in this section
11 prohibits a person engaged in the business of furnishing
12 appraisals of real property to take into consideration
13 factors other than race, color, religion, sex, disability,
14 familial status or national origin.

15

16 **40-23-109. Brokerage services.**

17

18 A person may not deny an individual access to, or
19 membership or participation in, a multiple-listing service,
20 real estate brokers' organization, or other service,
21 organization or facility relating to the business of
22 selling or renting dwellings, or discriminate against an
23 individual in the terms or conditions of access, membership
24 or participation in the organization, service or facility

1 because of race, color, religion, sex, disability, familial
2 status or national origin.

3

4 **40-23-110. Sales and rentals exempted.**

5

6 (a) W.S. 40-23-103 through 40-23-109 do not apply to
7 the sale or rental of a single family house sold or rented
8 by the owner if the owner does not own more than three (3)
9 single family houses at any one time or own any interest
10 in, nor is there owned or reserved on the person's behalf,
11 under any express or voluntary agreement, title to or any
12 right to any part of the proceeds from the sale or rental
13 of more than three (3) single family houses at any one
14 time. In addition, the house must be sold or rented
15 without the use of the sales or rental facilities or
16 services of a licensed real estate broker, agent or of a
17 person in the business of selling or renting dwellings, or
18 of an employee or agent of any such broker, agent, or
19 person; or the publication, posting or mailing of a notice,
20 statement or advertisement prohibited by W.S. 40-23-104.
21 The exemption provided in this subsection applies only to
22 one (1) sale or rental in a twenty-four (24) month period,
23 if the owner was not the most recent resident of the house
24 at the time of the sale or rental. For the purposes of

1 this subsection, a person is in the business of selling or
2 renting dwellings if the person:

3

4 (i) Within the preceding twelve (12) months, has
5 participated as principal in three (3) or more transactions
6 involving the sale or rental of any dwelling or any
7 interest in a dwelling; or

8

9 (ii) Within the preceding twelve (12) months,
10 has participated as agent, other than in the sale of the
11 person's own personal residence, in providing sales or
12 rental facilities or sales or rental services in two (2) or
13 more transactions involving the sale or rental of any
14 dwelling or any interest in a dwelling; or

15

16 (iii) Is the owner of any dwelling designed or
17 intended for occupancy by, or occupied by, five (5) or more
18 families.

19

20 (b) W.S. 40-23-103 and 40-23-105 through 40-23-109 do
21 not apply to the sale or rental of the rooms or units in a
22 dwelling containing living quarters occupied by or intended
23 to be occupied by not more than four (4) families living
24 independently of each other, if the owner maintains and

1 occupies one (1) of the living quarters as the owner's
2 residence.

3

4 **40-23-111. Religious organization, private club, and**
5 **appraisal exemption.**

6

7 (a) This chapter does not prohibit a religious
8 organization, association or society or a nonprofit
9 institution or organization operated, supervised or
10 controlled by or in conjunction with a religious
11 organization, association or society from limiting the
12 sale, rental or occupancy of dwellings that it owns or
13 operates for other than a commercial purpose to individuals
14 of the same religion or giving preference to persons of the
15 same religion, unless membership in the religion is
16 restricted because of race, color or national origin.

17

18 (b) This chapter does not prohibit a private club
19 that is not in fact open to the public and that, as an
20 incident to its primary purpose, provides lodging that it
21 owns or operates for other than a commercial purpose from
22 limiting the rental or occupancy of the lodging to its
23 members or from giving preference to its members, unless

1 membership in the club is restricted because of race, color
2 or national origin.

3

4 (c) This chapter does not prohibit a person engaged
5 in the business of furnishing appraisals of real property
6 from considering in those appraisals factors other than
7 race, color, religion, sex, disability, familial status or
8 national origin.

9

10 **40-23-112. Housing for elderly exempted.**

11

12 (a) The provisions of this chapter relating to
13 familial status and age do not apply to housing that the
14 secretary of housing and urban development determines is
15 specifically designed and operated to assist elderly
16 individuals under a federal program; the enforcing
17 authority determines is specifically designed and operated
18 to assist elderly individuals under a state program; is
19 intended for, and solely occupied by, individuals sixty-two
20 (62) years of age or older; or is intended and operated for
21 occupancy by at least one (1) individual fifty-five (55)
22 years of age or older for each unit as determined by
23 enforcing authority rules. In determining whether housing
24 qualifies as housing for elderly because it is intended and

1 operated for occupancy by at least one (1) individual
2 fifty-five (55) years of age or older for each unit, the
3 enforcing authority shall adopt rules that require at least
4 the following factors:

5

6 (i) That at least eighty percent (80%) of the
7 units are occupied by at least one (1) individual fifty-
8 five (55) years of age or older per unit; and

9

10 (ii) The publication of, and adherence to,
11 policies and procedures which demonstrate an intent by the
12 owner or manager to provide housing for individuals fifty-
13 five (55) years of age or older.

14

15 (b) Housing may not be considered to be in violation
16 of the requirements for housing for elderly under this
17 section by reason of:

18

19 (i) Individuals residing in the housing as of
20 July 1, 2005, who do not meet the age requirements of this
21 section, provided that new occupants of the housing meet
22 the age requirements; or

23

1 (ii) Unoccupied units, provided that the units
2 are reserved for occupancy by individuals who meet the age
3 requirements of this section.

4

5 **40-23-113. Effect on other law.**

6

7 (a) This chapter does not affect a reasonable local
8 or state restriction on the maximum number of occupants
9 permitted to occupy a dwelling or a restriction relating to
10 health or safety standards.

11

12 (b) This chapter does not affect a requirement of
13 nondiscrimination in any other state or federal law.

14

15 **40-23-114. Duties and powers of enforcing authority.**

16

17 The enforcing authority shall administer this chapter. The
18 enforcing authority may adopt rules necessary to implement
19 this chapter, but substantive rules adopted by the
20 enforcing authority shall impose obligations, rights and
21 remedies that are the same as are provided in federal fair
22 housing regulations. Within the limits of legislative
23 appropriations, the enforcing authority shall foster
24 prevention of discrimination under this chapter through

1 education for the public, landlords, publishers, realtors,
2 brokers, lenders and sellers on the rights and
3 responsibilities provided under this chapter and ways to
4 respect those protected rights. The enforcing authority
5 shall emphasize conciliation to resolve complaints.

6

7 **40-23-115. Complaints.**

8

9 As provided by W.S. 40-23-118 through 40-23-135, the
10 enforcing authority shall receive, investigate, seek to
11 conciliate and act on complaints alleging violations of
12 this chapter.

13

14 **40-23-116. Cooperation with other entities.**

15

16 The enforcing authority shall cooperate with and may
17 provide technical and other assistance to federal, state,
18 local and other public or private entities that are
19 designing or operating programs to prevent or eliminate
20 discriminatory housing practices.

21

22 **40-23-117. Gifts and grants; fair housing fund;**
23 **continuing appropriation.**

24

1 The enforcing authority may accept grants from the federal
2 government for administering this chapter. Grants received
3 shall be deposited with the state treasury in an account
4 created for the fair housing act. Monies deposited into
5 the account are to be appropriated to the enforcing
6 authority on a continuing basis for the purposes of
7 administering this chapter.

8

9 **40-23-118. Complaint.**

10

11 (a) The enforcing authority shall investigate
12 complaints of alleged discriminatory housing practices. An
13 aggrieved person may file a complaint with the enforcing
14 authority alleging the discriminatory housing practice.
15 The enforcing authority may file a complaint. A complaint
16 shall be in writing and shall contain such information and
17 be in such form as prescribed by the enforcing authority.
18 A complaint shall be filed on or before the first
19 anniversary of the date the alleged discriminatory housing
20 practice occurs or terminates, whichever is later. A
21 complaint may be amended at any time.

22

23 (b) On the filing of a complaint, the enforcing
24 authority shall give the aggrieved person notice that the

1 complaint has been received, advise the aggrieved person of
2 the time limits and choice of forums under this chapter,
3 and not later than the tenth day after the date of the
4 filing of the complaint or the identification of an
5 additional or substitute respondent under W.S. 40-23-121,
6 serve on each respondent a notice identifying the alleged
7 discriminatory housing practice and advising the respondent
8 of the procedural rights and obligations of a respondent
9 under this chapter and a copy of the original complaint.

10

11 **40-23-119. Answer.**

12

13 (a) Not later than the tenth day after the date of
14 receipt of the notice and copy of the complaint under W.S.
15 40-23-118(b), a respondent may file an answer to the
16 complaint. An answer shall be in writing, under oath, and
17 in the form prescribed by the enforcing authority.

18

19 (b) An answer may be amended at any time. An answer
20 does not inhibit the investigation of a complaint.

21

22 **40-23-120. Investigation.**

23

1 (a) If the federal government has referred a
2 complaint to the enforcing authority or has deferred
3 jurisdiction over the subject matter of the complaint to
4 the enforcing authority, the enforcing authority shall
5 investigate the allegations set forth in the complaint.

6
7 (b) The enforcing authority shall investigate all
8 complaints and, except as provided by subsection (c) of
9 this section, shall complete an investigation not later
10 than the hundredth day after the date the complaint is
11 filed or, if it is impracticable to complete the
12 investigation within the one hundred (100) day period,
13 shall dispose of all administrative proceedings related to
14 the investigation not later than the first anniversary
15 after the date the complaint is filed.

16
17 (c) If the enforcing authority is unable to complete
18 an investigation within the time periods prescribed by
19 subsection (b) of this section, the enforcing authority
20 shall notify the complainant and the respondent in writing
21 of the reasons for the delay.

22

23 **40-23-121. Additional or substitute respondent.**

24

1 The enforcing authority may join a person not named in the
2 complaint as an additional or substitute respondent if
3 during the investigation the enforcing authority determines
4 that the person is alleged to be engaged, to have engaged,
5 or to be about to engage in the discriminatory housing
6 practice upon which the complaint is based. In addition to
7 the information required in the notice under W.S.
8 40-23-118(b), the enforcing authority shall include in a
9 notice to a respondent joined under this section the
10 reasons for the determination that the person is properly
11 joined as a respondent.

12

13 **40-23-122. Conciliation.**

14

15 The enforcing authority shall, during the period beginning
16 with the filing of a complaint and ending with the filing
17 of a charge or a dismissal by the enforcing authority, to
18 the extent feasible, engage in conciliation with respect to
19 the complaint. A conciliation agreement between a
20 respondent and the complainant is subject to enforcing
21 authority approval. A conciliation agreement may provide
22 for binding arbitration or another method of dispute
23 resolution. Dispute resolution that results from a

1 conciliation agreement may authorize appropriate relief,
2 including monetary relief.

3

4 **40-23-123. Temporary or preliminary relief.**

5

6 The enforcing authority may authorize a claim for relief
7 for temporary or preliminary relief pending the final
8 disposition of a complaint, if the enforcing authority
9 concludes after the filing of the complaint that prompt
10 judicial action is necessary to carry out the purposes of
11 this chapter. On receipt of the enforcing authority's
12 authorization, the attorney general shall promptly file the
13 claim. A temporary restraining order or other order
14 granting preliminary or temporary relief under this section
15 is governed by the applicable statutes and the Wyoming
16 Rules of Civil Procedure. The filing of a claim for relief
17 under this section does not affect the initiation or
18 continuation of administrative proceedings under W.S.
19 40-23-131.

20

21 **40-23-124. Investigative report.**

22

23 The enforcing authority shall prepare a final investigative
24 report, including the names of and dates of contacts with

1 witnesses, a summary of correspondence and other contacts
2 with the aggrieved person and the respondent showing the
3 dates of the correspondence and contacts, a summary
4 description of other pertinent records, a summary of
5 witness statements, and answers to interrogatories. A
6 final report under this section may be amended if
7 additional evidence is discovered.

8

9 **40-23-125. Reasonable cause determination.**

10

11 (a) The enforcing authority shall determine from the
12 facts whether reasonable cause exists to believe that a
13 discriminatory housing practice has occurred or is about to
14 occur. The enforcing authority shall make this
15 determination not later than the one-hundredth day after
16 the date a complaint is filed unless making the
17 determination is impracticable, or the enforcing authority
18 approves a conciliation agreement relating to the
19 complaint.

20

21 (b) If making the determination within the period is
22 impracticable, the enforcing authority shall give in
23 writing to the complainant and the respondent the reasons
24 for the delay. If the enforcing authority determines that

1 reasonable cause exists to believe that a discriminatory
2 housing practice has occurred or is about to occur, the
3 enforcing authority shall, except as provided by W.S.
4 40-23-127, immediately issue a charge on behalf of the
5 aggrieved person.

6

7 **40-23-126. Charge.**

8

9 (a) A charge issued under W.S. 40-23-125 shall
10 consist of a short and plain statement of the facts on
11 which the enforcing authority finds reasonable cause to
12 believe that a discriminatory housing practice has occurred
13 or is about to occur, shall be based on the final
14 investigative report, and is not limited to the facts or
15 grounds alleged in the complaint.

16

17 (b) Within three (3) days after issuing a charge, the
18 enforcing authority shall send a copy of the charge with
19 information about the election under W.S. 40-23-130 to each
20 respondent and each aggrieved person on whose behalf the
21 complaint was filed.

22

1 (c) The enforcing authority shall include with a
2 charge sent to a respondent a notice of the opportunity for
3 a hearing under W.S. 40-23-131.

4

5 **40-23-127. Land use law.**

6

7 If the enforcing authority determines that the matter
8 involves the legality of a state or local zoning or other
9 land use law or ordinance, the enforcing authority may
10 issue a charge and proceed with the appropriate action.

11

12 **40-23-128. Dismissal.**

13

14 If the enforcing authority determines that no reasonable
15 cause exists to believe that a discriminatory housing
16 practice that is the subject of a complaint has occurred or
17 is about to occur, the enforcing authority shall promptly
18 dismiss the complaint. The enforcing authority shall make
19 public disclosure of each dismissal.

20

21 **40-23-129. Pending civil trial.**

22

23 The enforcing authority may not issue a charge alleging a
24 discriminatory housing practice after the beginning of the

1 trial of a civil action commenced by the aggrieved party
2 under federal or state law seeking relief with respect to
3 that discriminatory housing practice.

4

5 **40-23-130. Election of judicial determination.**

6

7 A complainant, a respondent, or an aggrieved person on
8 whose behalf a complaint was filed may elect to have the
9 claims asserted in the charge decided in a civil action as
10 provided by W.S. 40-23-136. The election shall be made not
11 later than the twentieth day after the date the person
12 having the election receives service under W.S.
13 40-23-126(b) or, in the case of the enforcing authority,
14 not later than the twentieth day after the date the charge
15 is issued. The person making the election shall give
16 notice to the enforcing authority and to all other
17 complainants and respondents to whom the charge relates.

18

19 **40-23-131. Administrative hearing.**

20

21 If a timely election is not made under W.S. 40-23-130, the
22 enforcing authority shall provide for a hearing on the
23 charge. A hearing under this section on an alleged
24 discriminatory housing practice may not continue after the

1 beginning of the trial of a claim for relief commenced by
2 the aggrieved person under federal or state law seeking
3 relief with respect to the discriminatory housing practice.

4

5 **40-23-132. Administrative penalties.**

6

7 (a) If the enforcing authority determines at a
8 hearing under W.S. 40-23-131 that a respondent has engaged
9 in or is about to engage in a discriminatory housing
10 practice, the enforcing authority may order the appropriate
11 relief, including actual damages, reasonable attorney's
12 fees, court costs and other injunctive or equitable relief.

13

14 (b) To vindicate the public's interest, the enforcing
15 authority may assess a civil penalty against the respondent
16 in an amount that does not exceed:

17

18 (i) Eleven thousand dollars (\$11,000.00) if the
19 respondent has been found by order of the enforcing
20 authority or a court to have committed a prior
21 discriminatory housing practice; or

22

23 (ii) Except as provided by subsection (c) of
24 this section, twenty-seven thousand dollars (\$27,000.00) if

1 the respondent has been found by order of the enforcing
2 authority or a court to have committed one (1) other
3 discriminatory housing practice during the five (5) year
4 period ending on the date of the filing of the charges and
5 fifty-five thousand dollars (\$55,000.00) if the respondent
6 has been found by the enforcing authority or a court to
7 have committed two (2) or more discriminatory housing
8 practices during the seven (7) year period ending on the
9 date of filing of the charge.

10

11 (c) If the acts constituting the discriminatory
12 housing practice that is the object of the charge are
13 committed by the same individual who has previously been
14 found to have committed acts constituting a discriminatory
15 housing practice, the civil penalties in subsection (b) of
16 this section may be imposed without regard to the period of
17 time within which any other discriminatory housing practice
18 occurred.

19

20 (d) The enforcing agency shall sue to recover a civil
21 penalty due under this section. Funds collected under this
22 section must be paid to the state treasurer for deposit in
23 the general fund.

24

1 **40-23-133. Effect of enforcing authority order.**

2

3 An enforcing authority order under W.S. 40-23-132 does not
4 affect a contract, sale, encumbrance or lease that is
5 consummated before the enforcing authority issues the order
6 and involves a bona fide purchaser, encumbrancer or tenant
7 who did not have actual notice of the charge filed under
8 this chapter.

9

10 **40-23-134. Licensed or regulated business.**

11

12 If the enforcing authority issues an order with respect to
13 a discriminatory housing practice that occurs in the course
14 of a business subject to a licensing or regulation by a
15 governmental agency, the enforcing authority, not later
16 than the thirtieth day after the date the order is issued,
17 shall send copies of the findings and the order to the
18 governmental agency and recommend to the governmental
19 agency appropriate disciplinary action.

20

21 **40-23-135. Order in preceding five years.**

22

23 If the enforcing authority issues an order against a
24 respondent against whom another order was issued within the

1 preceding five (5) years under W.S. 40-23-133, the
2 enforcing authority shall send a copy of each order to the
3 attorney general.

4

5 **40-23-136. Attorney general action for enforcement.**

6

7 If a timely election is made under W.S. 40-23-130, the
8 attorney general shall file not later than the thirtieth
9 day after the date of the election a claim for relief
10 seeking relief on behalf of the aggrieved person in a
11 district court. Venue for an action is in the county in
12 which the alleged discriminatory housing practice occurred
13 or is about to occur. An aggrieved person may intervene in
14 the action. If the court finds that a discriminatory
15 housing practice has occurred or is about to occur, the
16 court may grant as relief any relief that a court may grant
17 in a civil action under W.S. 40-23-129 through 40-23-143.
18 If monetary relief is sought for the benefit of an
19 aggrieved person who does not intervene in the civil
20 action, the court may not award the monetary relief if that
21 aggrieved person has not complied with discovery orders
22 entered by the court.

23

24 **40-23-137. Pattern or practice case; penalties.**

1

2 (a) The attorney general may file a claim for relief
3 in district court for appropriate relief if the enforcing
4 authority has reasonable cause to believe that a person is
5 engaged in a pattern or practice of resistance to the full
6 enjoyment of a right granted under this chapter or a person
7 has been denied a right granted by this chapter and that
8 denial raises an issue of general public importance.

9

10 (b) In an action under this section, the court may:

11

12 (i) Award preventive relief, including a
13 permanent or temporary injunction, restraining order, or
14 other order against the person responsible for a violation
15 of this chapter as necessary to assure the full enjoyment
16 of the rights granted by this chapter;

17

18 (ii) Award other appropriate relief, including
19 monetary damages, reasonable attorney's fees, and court
20 costs; and

21

22 (iii) To vindicate the public interest, assess a
23 civil penalty against the respondent in an amount that does
24 not exceed fifty thousand dollars (\$50,000.00) for a first

1 violation and one hundred thousand dollars (\$100,000.00)
2 for a second or subsequent violation.

3

4 (c) A person may intervene in an action under this
5 section if the person is a person aggrieved by the
6 discriminatory housing practice or a party to a
7 conciliation agreement concerning the discriminatory
8 housing practice.

9

10 **40-23-138. Subpoena enforcement.**

11

12 The attorney general, on behalf of the enforcing authority
13 or another party at whose request a subpoena is issued
14 under this chapter, may enforce the subpoena in appropriate
15 proceedings in district court.

16

17 **40-23-139. Civil action.**

18

19 (a) An aggrieved person may file a civil action in
20 district court not later than the second year after the
21 date of the occurrence or the termination of an alleged
22 discriminatory housing practice or the breach of a
23 conciliation agreement entered under this chapter,

1 whichever occurs last, to obtain appropriate relief with
2 respect to the discriminatory housing practice or breach.

3

4 (b) The two (2) year period does not include any time
5 during which an administrative hearing under this chapter
6 is pending with respect to a complaint or charge under this
7 chapter based on the discriminatory housing practice. This
8 subsection does not apply to actions arising from the
9 breach of a conciliation agreement.

10

11 (c) An aggrieved person may file a claim for relief
12 whether a complaint has been filed under W.S. 40-23-118 and
13 without regard to the status of any complaint filed under
14 that section.

15

16 (d) If the enforcing authority has obtained a
17 conciliation agreement with the consent of an aggrieved
18 person, the aggrieved person may not file a claim for
19 relief with respect to the alleged discriminatory housing
20 practice that forms the basis of the complaint except to
21 enforce the terms of the agreement.

22

23 (e) An aggrieved person may not file a claim for
24 relief with respect to an alleged discriminatory housing

1 practice that forms the basis of a charge issued by the
2 enforcing authority if the enforcing authority has begun a
3 hearing on the record under this chapter with respect to
4 the charge.

5

6 **40-23-140. Relief granted.**

7

8 If the court finds that a discriminatory housing practice
9 has occurred or is about to occur, the court may award to
10 the plaintiff actual and punitive damages, reasonable
11 attorney's fees, court costs, and subject to W.S.
12 40-23-142, a permanent or temporary injunction, temporary
13 restraining order, or other order, including an order
14 enjoining the defendant from engaging in the practice or
15 ordering appropriate affirmative action.

16

17 **40-23-141. Effect of relief granted.**

18

19 Relief granted under W.S. 40-23-139 through 40-23-143 does
20 not affect a contract, sale, encumbrance or lease that is
21 consummated before the granting of the relief and involves
22 a bona fide purchaser, encumbrancer or tenant who did not
23 have actual notice of the filing of a complaint or civil
24 action under this chapter.

1

2

40-23-142. Intervention by attorney general.

3

4 The attorney general may intervene in an action under W.S.

5 40-23-139 through 40-23-143 if the attorney general

6 certifies that the case is of general public importance.

7 The attorney general may obtain the same relief as is

8 available to the attorney general under W.S. 40-23-137(b).

9

10

40-23-143. Prevailing party.

11

12 A court in an action brought under this chapter or the

13 enforcing authority in an administrative hearing under W.S.

14 40-23-131 may award reasonable attorney's fees to the

15 prevailing party and assess court costs against the

16 nonprevailing party.

17

18

40-23-144. Intimidation or interference; penalty.

19

20 (a) A person commits an offense if the person,

21 without regard to whether the person is acting under color

22 of law, by force or threat of force, intentionally

23 intimidates or interferes with an individual:

24

1 (i) Because of the individual's race, color,
2 religion, sex, disability, age, familial status, national
3 origin or status with respect to marriage or public
4 assistance and because the individual is or has been
5 selling, purchasing, renting, financing, occupying or
6 contracting or negotiating for the sale, purchase, rental,
7 financing or occupation of any dwelling or applying for or
8 participating in a service, organization or facility
9 relating to the business of selling or renting dwellings;
10 or

11

12 (ii) Because the individual is or has been or to
13 intimidate the individual from:

14

15 (A) Participating, without discrimination
16 because of race, color, religion, sex, disability, familial
17 status or national origin in an activity, service,
18 organization or facility described by paragraph (i) of this
19 subsection;

20

21 (B) Affording another individual
22 opportunity or protection to so participate; or

23

1 (C) Lawfully aiding or encouraging other
2 individuals to participate, without discrimination because
3 of race, color, religion, sex, disability, familial status
4 or national origin, or status with respect to marriage or
5 public assistance, in an activity, service, organization,
6 or facility described in paragraph (i) of this subsection.

7

8 (b) It is a discriminatory practice to coerce,
9 intimidate, threaten or interfere with any individual in
10 the exercise or enjoyment of, or on account of the
11 individual having exercised or enjoyed, or on account of
12 the individual having aided or encouraged any other
13 individual in the exercise or enjoyment of, any right
14 granted or protected by this chapter.

15

16 (c) An offense under subsection (a) or (b) of this
17 section is a misdemeanor.

18

19 **40-23-145. Records exempt.**

20

21 A complaint filed with the enforcing authority under W.S.
22 40-23-118 is an open record. Information obtained during
23 an investigation conducted by the enforcing authority under
24 this chapter can be used in any judicial proceedings or

1 administrative hearing relating to the complaint under this
2 chapter or before the administrative closure of a complaint
3 by the enforcing authority. The enforcing authority may
4 disclose to the complainant or the respondent, or
5 representatives of the complainant or respondent,
6 information obtained during an investigation if deemed
7 necessary by the enforcing authority for securing an
8 appropriate resolution of a complaint. The enforcing
9 authority may disclose information obtained during an
10 investigation to a federal agency if necessary for the
11 processing of complaints under an agreement with the
12 agency. Individually identifiable health information
13 obtained during an investigation may not be disclosed by
14 the enforcing authority except to a federal agency if
15 necessary for the processing of complaints under an
16 agreement with the agency. Statements made or actions
17 taken during conciliation efforts relating to a complaint
18 under this chapter may not be disclosed by the enforcing
19 authority, except to a federal agency if necessary for the
20 processing of complaints under an agreement with the
21 agency, and may not be used as evidence in a subsequent
22 proceeding under this chapter without the written consent
23 of the parties to the conciliation. A conciliation
24 agreement is an open record unless the complainant and

1 respondent agree that it is not and the enforcing authority
2 determines that disclosure is not necessary to further the
3 purposes of this chapter.

4

5 **Section 2.** This act is effective July 1, 2005.

6

7

(END)