

112TH CONGRESS  
1ST SESSION

# H. R. 1397

To prohibit employment discrimination on the basis of sexual orientation  
or gender identity.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2011

Mr. FRANK of Massachusetts (for himself, Ms. ROS-LEHTINEN, Mr. GEORGE MILLER of California, Ms. PELOSI, Mr. HOYER, Mr. CONYERS, Ms. BALDWIN, Mr. POLIS, Mr. CICILLINE, Mr. NADLER, Mr. ANDREWS, Ms. RICHARDSON, Mr. DOYLE, Ms. SPEIER, Mr. HOLT, Mrs. LOWEY, Mr. PETERS, Mr. ISRAEL, Ms. CHU, Mr. WU, Ms. DEGETTE, Mr. BERMAN, Mr. JACKSON of Illinois, Mr. ACKERMAN, Ms. CLARKE of New York, Mr. TOWNS, Mr. McDERMOTT, Mr. GRIJALVA, Mrs. DAVIS of California, Mr. LOEBSACK, Mr. MORAN, Ms. TSONGAS, Mr. SARBANES, Ms. LINDA T. SÁNCHEZ of California, Mr. KEATING, Mr. FILNER, Mr. COOPER, Ms. SUTTON, Mr. QUIGLEY, Mr. WAXMAN, Ms. LEE of California, Mr. CONNOLLY of Virginia, Mr. COURTNEY, Mr. LARSEN of Washington, Mr. HINCHEY, Mr. MARKEY, Mr. TIERNEY, Mr. OLVER, Mr. CAPUANO, Mr. FARR, Ms. SCHAKOWSKY, Mrs. MALONEY, Mr. DINGELL, Mr. GUTIERREZ, Mr. STARK, Mr. SCOTT of Virginia, Mr. PLATTS, Mr. CROWLEY, Mr. SERRANO, Ms. ESHOO, Ms. ROYBAL-ALLARD, Mr. HONDA, Ms. SCHWARTZ, Ms. MOORE, Mrs. CAPP, Mr. PRICE of North Carolina, Mr. SHERMAN, Mr. BECERRA, Ms. ZOE LOFGREN of California, Ms. DELAURO, Mr. SCHIFF, Mr. HEINRICH, Mr. RANGEL, Mr. ROTHMAN of New Jersey, Mr. SIRES, Mr. BRADY of Pennsylvania, Mr. BOSWELL, Mr. BRALEY of Iowa, Ms. CASTOR of Florida, Mr. LEVIN, Mr. MCGOVERN, Mr. FATTAH, Mr. HIGGINS, Mrs. NAPOLITANO, Ms. BERKLEY, Mr. LUJÁN, Mr. MICHAUD, Mr. WEINER, Mr. HASTINGS of Florida, Ms. WOOLSEY, Ms. HIRONO, Mrs. BIGGERT, Ms. NORTON, Ms. MCCOLLUM, Mr. VAN HOLLEN, Ms. PINGREE of Maine, Mr. ENGEL, Ms. WASSERMAN SCHULTZ, Mr. LEWIS of Georgia, Mr. COHEN, Mr. DEUTCH, Mr. PASCRELL, Ms. WATERS, Mr. KILDEE, Mr. INSLEE, Mr. LANGEVIN, Mr. SMITH of Washington, Mr. LYNCH, Mr. NEAL, Mr. CUMMINGS, Mr. LARSON of Connecticut, and Ms. FUDGE) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, Oversight and Government Reform, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

# A BILL

To prohibit employment discrimination on the basis of sexual orientation or gender identity.

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

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Employment Non-Dis-  
5 crimination Act”.

6 **SEC. 2. PURPOSES.**

7       The purposes of this Act are—

8           (1) to address the history and widespread pat-  
9 tern of discrimination on the basis of sexual orienta-  
10 tion or gender identity by private sector employers  
11 and local, State, and Federal Government employers;

12           (2) to provide a comprehensive Federal prohibi-  
13 tion of employment discrimination on the basis of  
14 sexual orientation or gender identity, including  
15 meaningful and effective remedies for any such dis-  
16 crimination; and

17           (3) to invoke congressional powers, including  
18 the powers to enforce the 14th Amendment to the  
19 Constitution, and to regulate interstate commerce  
20 and provide for the general welfare pursuant to sec-  
21 tion 8 of article I of the Constitution, in order to

1 prohibit employment discrimination on the basis of  
2 sexual orientation or gender identity.

3 **SEC. 3. DEFINITIONS.**

4 (a) IN GENERAL.—In this Act:

5 (1) COMMISSION.—The term “Commission”  
6 means the Equal Employment Opportunity Commis-  
7 sion.

8 (2) COVERED ENTITY.—The term “covered en-  
9 tity” means an employer, employment agency, labor  
10 organization, or joint labor-management committee.

11 (3) EMPLOYEE.—

12 (A) IN GENERAL.—the term “employee”  
13 means—

14 (i) an employee as defined in section  
15 701(f) of the Civil Rights Act of 1964 (42  
16 U.S.C. 2000e(f));

17 (ii) a Presidential appointee or State  
18 employee to which section 302(a)(1) of the  
19 Government Employee Rights Act of 1991  
20 (42 U.S.C. 2000e–16(a)(1)) applies;

21 (iii) a covered employee, as defined in  
22 section 101 of the Congressional Account-  
23 ability Act of 1995 (2 U.S.C. 1301) or sec-  
24 tion 411(c) of title 3, United States Code;  
25 or

1 (iv) an employee or applicant to which  
2 section 717(a) of the Civil Rights Act of  
3 1964 (42 U.S.C. 2000e-16(a)) applies.

4 (B) EXCEPTION.—The provisions of this  
5 Act that apply to an employee or individual  
6 shall not apply to a volunteer who receives no  
7 compensation.

8 (4) EMPLOYER.—The term “employer”  
9 means—

10 (A) a person engaged in an industry affect-  
11 ing commerce (as defined in section (701)(h) of  
12 the Civil Rights Act of 1964 (42 U.S.C.  
13 2000e(h))) who has 15 or more employees (as  
14 defined in subparagraphs (A)(i) and (B) of  
15 paragraph (3)) for each working day in each of  
16 20 or more calendar weeks in the current or  
17 preceding calendar year, and any agent of such  
18 a person, but does not include a bona fide pri-  
19 vate membership club (other than a labor orga-  
20 nization) that is exempt from taxation under  
21 section 501(c) of the Internal Revenue Code of  
22 1986;

23 (B) an employing authority to which sec-  
24 tion 302(a)(1) of the Government Employee  
25 Rights Act of 1991 applies;

1 (C) an employing office, as defined in sec-  
2 tion 101 of the Congressional Accountability  
3 Act of 1995 or section 411(c) of title 3, United  
4 States Code; or

5 (D) an entity to which section 717(a) of  
6 the Civil Rights Act of 1964 applies.

7 (5) EMPLOYMENT AGENCY.—The term “em-  
8 ployment agency” has the meaning given the term in  
9 section 701(c) of the Civil Rights Act of 1964 (42  
10 U.S.C. 2000e(c)).

11 (6) GENDER IDENTITY.—The term “gender  
12 identity” means the gender-related identity, appear-  
13 ance, or mannerisms or other gender-related charac-  
14 teristics of an individual, with or without regard to  
15 the individual’s designated sex at birth.

16 (7) LABOR ORGANIZATION.—The term “labor  
17 organization” has the meaning given the term in  
18 section 701(d) of the Civil Rights Act of 1964 (42  
19 U.S.C. 2000e(d)).

20 (8) PERSON.—The term “person” has the  
21 meaning given the term in section 701(a) of the  
22 Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

23 (9) SEXUAL ORIENTATION.—The term “sexual  
24 orientation” means homosexuality, heterosexuality,  
25 or bisexuality.

1           (10) STATE.—The term “State” has the mean-  
2           ing given the term in section 701(i) of the Civil  
3           Rights Act of 1964 (42 U.S.C. 2000e(i)).

4           (b) APPLICATION OF DEFINITIONS.—For purposes of  
5           this section, a reference in section 701 of the Civil Rights  
6           Act of 1964—

7           (1) to an employee or an employer shall be con-  
8           sidered to refer to an employee (as defined in para-  
9           graph (3)) or an employer (as defined in paragraph  
10          (4)), respectively, except as provided in paragraph  
11          (2) below; and

12          (2) to an employer in subsection (f) of that sec-  
13          tion shall be considered to refer to an employer (as  
14          defined in paragraph (4)(A)).

15 **SEC. 4. EMPLOYMENT DISCRIMINATION PROHIBITED.**

16          (a) EMPLOYER PRACTICES.—It shall be an unlawful  
17          employment practice for an employer—

18          (1) to fail or refuse to hire or to discharge any  
19          individual, or otherwise discriminate against any in-  
20          dividual with respect to the compensation, terms,  
21          conditions, or privileges of employment of the indi-  
22          vidual, because of such individual’s actual or per-  
23          ceived sexual orientation or gender identity; or

24          (2) to limit, segregate, or classify the employees  
25          or applicants for employment of the employer in any

1 way that would deprive or tend to deprive any indi-  
2 vidual of employment or otherwise adversely affect  
3 the status of the individual as an employee, because  
4 of such individual's actual or perceived sexual ori-  
5 entation or gender identity.

6 (b) EMPLOYMENT AGENCY PRACTICES.—It shall be  
7 an unlawful employment practice for an employment agen-  
8 cy to fail or refuse to refer for employment, or otherwise  
9 to discriminate against, any individual because of the ac-  
10 tual or perceived sexual orientation or gender identity of  
11 the individual or to classify or refer for employment any  
12 individual on the basis of the actual or perceived sexual  
13 orientation or gender identity of the individual.

14 (c) LABOR ORGANIZATION PRACTICES.—It shall be  
15 an unlawful employment practice for a labor organiza-  
16 tion—

17 (1) to exclude or to expel from its membership,  
18 or otherwise to discriminate against, any individual  
19 because of the actual or perceived sexual orientation  
20 or gender identity of the individual;

21 (2) to limit, segregate, or classify its member-  
22 ship or applicants for membership, or to classify or  
23 fail or refuse to refer for employment any individual,  
24 in any way that would deprive or tend to deprive any  
25 individual of employment, or would limit such em-

1       ployment or otherwise adversely affect the status of  
2       the individual as an employee or as an applicant for  
3       employment because of such individual's actual or  
4       perceived sexual orientation or gender identity; or

5               (3) to cause or attempt to cause an employer to  
6       discriminate against an individual in violation of this  
7       section.

8       (d) TRAINING PROGRAMS.—It shall be an unlawful  
9       employment practice for any employer, labor organization,  
10      or joint labor-management committee controlling appren-  
11      ticeship or other training or retraining, including on-the-  
12      job training programs, to discriminate against any indi-  
13      vidual because of the actual or perceived sexual orientation  
14      or gender identity of the individual in admission to, or em-  
15      ployment in, any program established to provide appren-  
16      ticeship or other training.

17      (e) ASSOCIATION.—An unlawful employment practice  
18      described in any of subsections (a) through (d) shall be  
19      considered to include an action described in that sub-  
20      section, taken against an individual based on the actual  
21      or perceived sexual orientation or gender identity of a per-  
22      son with whom the individual associates or has associated.

23      (f) NO PREFERENTIAL TREATMENT OR QUOTAS.—  
24      Nothing in this Act shall be construed or interpreted to  
25      require or permit—



1           (1) any covered entity to grant preferential  
2 treatment to any individual or to any group because  
3 of the actual or perceived sexual orientation or gen-  
4 der identity of such individual or group on account  
5 of an imbalance which may exist with respect to the  
6 total number or percentage of persons of any actual  
7 or perceived sexual orientation or gender identity  
8 employed by any employer, referred or classified for  
9 employment by any employment agency or labor or-  
10 ganization, admitted to membership or classified by  
11 any labor organization, or admitted to, or employed  
12 in, any apprenticeship or other training program, in  
13 comparison with the total number or percentage of  
14 persons of such actual or perceived sexual orienta-  
15 tion or gender identity in any community, State, sec-  
16 tion, or other area, or in the available work force in  
17 any community, State, section, or other area; or

18           (2) the adoption or implementation by a cov-  
19 ered entity of a quota on the basis of actual or per-  
20 ceived sexual orientation or gender identity.

21           (g) DISPARATE IMPACT.—Only disparate treatment  
22 claims may be brought under this Act.

23 **SEC. 5. RETALIATION PROHIBITED.**

24           It shall be an unlawful employment practice for a cov-  
25 ered entity to discriminate against an individual because

1 such individual (1) opposed any practice made an unlawful  
2 employment practice by this Act; or (2) made a charge,  
3 testified, assisted, or participated in any manner in an in-  
4 vestigation, proceeding, or hearing under this Act.

5 **SEC. 6. EXEMPTION FOR RELIGIOUS ORGANIZATIONS.**

6 This Act shall not apply to a corporation, association,  
7 educational institution, or society that is exempt from the  
8 religious discrimination provisions of title VII of the Civil  
9 Rights Acts of 1964 pursuant to section 702(a) or  
10 703(e)(2) of such Act (42 U.S.C. 2000e–1(a); 2000e–  
11 2(e)(2)).

12 **SEC. 7. NONAPPLICATION TO MEMBERS OF THE ARMED**  
13 **FORCES; VETERANS' PREFERENCES.**

14 (a) ARMED FORCES.—

15 (1) EMPLOYMENT.—In this Act, the term “em-  
16 ployment” does not apply to the relationship be-  
17 tween the United States and members of the Armed  
18 Forces.

19 (2) ARMED FORCES.—In paragraph (1) the  
20 term “Armed Forces” means the Army, Navy, Air  
21 Force, Marine Corps, and Coast Guard.

22 (b) VETERANS' PREFERENCES.—This title does not  
23 repeal or modify any Federal, State, territorial, or local  
24 law creating a special right or preference concerning em-  
25 ployment for a veteran.

1 **SEC. 8. CONSTRUCTION.**

2 (a) **EMPLOYER RULES AND POLICIES.—**

3 (1) **IN GENERAL.—**Nothing in this Act shall be  
4 construed to prohibit a covered entity from enforcing  
5 rules and policies that do not intentionally cir-  
6 cumvent the purposes of this Act, if the rules or  
7 policies are designed for, and uniformly applied to,  
8 all individuals regardless of actual or perceived sex-  
9 ual orientation or gender identity.

10 (2) **SEXUAL HARASSMENT.—**Nothing in this  
11 Act shall be construed to limit a covered entity from  
12 taking adverse action against an individual because  
13 of a charge of sexual harassment against that indi-  
14 vidual, provided that rules and policies on sexual  
15 harassment, including when adverse action is taken,  
16 are designed for, and uniformly applied to, all indi-  
17 viduals regardless of actual or perceived sexual ori-  
18 entation or gender identity.

19 (3) **CERTAIN SHARED FACILITIES.—**Nothing in  
20 this Act shall be construed to establish an unlawful  
21 employment practice based on actual or perceived  
22 gender identity due to the denial of access to shared  
23 shower or dressing facilities in which being seen  
24 unclothed is unavoidable, provided that the employer  
25 provides reasonable access to adequate facilities that  
26 are not inconsistent with the employee's gender iden-

1       tity as established with the employer at the time of  
2       employment or upon notification to the employer  
3       that the employee has undergone or is undergoing  
4       gender transition, whichever is later.

5               (4) ADDITIONAL FACILITIES NOT REQUIRED.—  
6       Nothing in this Act shall be construed to require the  
7       construction of new or additional facilities.

8               (5) DRESS AND GROOMING STANDARDS.—Noth-  
9       ing in this Act shall prohibit an employer from re-  
10      quiring an employee, during the employee’s hours at  
11      work, to adhere to reasonable dress or grooming  
12      standards not prohibited by other provisions of Fed-  
13      eral, State, or local law, provided that the employer  
14      permits any employee who has undergone gender  
15      transition prior to the time of employment, and any  
16      employee who has notified the employer that the em-  
17      ployee has undergone or is undergoing gender tran-  
18      sition after the time of employment, to adhere to the  
19      same dress or grooming standards for the gender to  
20      which the employee has transitioned or is  
21      transitioning.

22              (b) EMPLOYEE BENEFITS.—Nothing in this Act shall  
23      be construed to require a covered entity to treat an unmar-  
24      ried couple in the same manner as the covered entity  
25      treats a married couple for purposes of employee benefits.

1 (c) DEFINITION OF MARRIAGE.—As used in this Act,  
2 the term “married” refers to marriage as such term is  
3 defined in section 7 of title I, United States Code (referred  
4 to as the Defense of Marriage Act).

5 **SEC. 9. COLLECTION OF STATISTICS PROHIBITED.**

6 The Commission shall not collect statistics on actual  
7 or perceived sexual orientation or gender identity from  
8 covered entities, or compel the collection of such statistics  
9 by covered entities.

10 **SEC. 10. ENFORCEMENT.**

11 (a) ENFORCEMENT POWERS.—With respect to the  
12 administration and enforcement of this Act in the case of  
13 a claim alleged by an individual for a violation of this  
14 Act—

15 (1) the Commission shall have the same powers  
16 as the Commission has to administer and enforce—

17 (A) title VII of the Civil Rights Act of  
18 1964 (42 U.S.C. 2000e et seq.); or

19 (B) sections 302 and 304 of the Govern-  
20 ment Employee Rights Act of 1991 (42 U.S.C.  
21 2000e–16b and 2000e–16c),

22 in the case of a claim alleged by such individual for  
23 a violation of such title, or of section 302(a)(1) of  
24 the Government Employee Rights Act of 1991 (42  
25 U.S.C. 2000e–16b(a)(1)), respectively;

1           (2) the Librarian of Congress shall have the  
2 same powers as the Librarian of Congress has to ad-  
3 minister and enforce title VII of the Civil Rights Act  
4 of 1964 (42 U.S.C. 2000e et seq.) in the case of a  
5 claim alleged by such individual for a violation of  
6 such title;

7           (3) the Board (as defined in section 101 of the  
8 Congressional Accountability Act of 1995 (2 U.S.C.  
9 1301)) shall have the same powers as the Board has  
10 to administer and enforce the Congressional Ac-  
11 countability Act of 1995 (2 U.S.C. 1301 et seq.) in  
12 the case of a claim alleged by such individual for a  
13 violation of section 201(a)(1) of such Act (2 U.S.C.  
14 1311(a)(1));

15           (4) the Attorney General shall have the same  
16 powers as the Attorney General has to administer  
17 and enforce—

18                   (A) title VII of the Civil Rights Act of  
19 1964 (42 U.S.C. 2000e et seq.); or

20                   (B) sections 302 and 304 of the Govern-  
21 ment Employee Rights Act of 1991 (42 U.S.C.  
22 2000e–16b and 2000e–16c);

23 in the case of a claim alleged by such individual for  
24 a violation of such title, or of section 302(a)(1) of

1 the Government Employee Rights Act of 1991 (42  
2 U.S.C. 2000e–16b(a)(1)), respectively;

3 (5) the President, the Commission, and the  
4 Merit Systems Protection Board shall have the same  
5 powers as the President, the Commission, and the  
6 Board, respectively, have to administer and enforce  
7 chapter 5 of title 3, United States Code, in the case  
8 of a claim alleged by such individual for a violation  
9 of section 411 of such title; and

10 (6) a court of the United States shall have the  
11 same jurisdiction and powers as the court has to en-  
12 force—

13 (A) title VII of the Civil Rights Act of  
14 1964 (42 U.S.C. 2000e et seq.) in the case of  
15 a claim alleged by such individual for a viola-  
16 tion of such title;

17 (B) sections 302 and 304 of the Govern-  
18 ment Employee Rights Act of 1991 (42 U.S.C.  
19 2000e–16b and 2000e–16c) in the case of a  
20 claim alleged by such individual for a violation  
21 of section 302(a)(1) of such Act (42 U.S.C.  
22 2000e–16b(a)(1));

23 (C) the Congressional Accountability Act  
24 of 1995 (2 U.S.C. 1301 et seq.) in the case of  
25 a claim alleged by such individual for a viola-

1           tion of section 201(a)(1) of such Act (2 U.S.C.  
2           1311(a)(1)); and

3           (D) chapter 5 of title 3, United States  
4           Code, in the case of a claim alleged by such in-  
5           dividual for a violation of section 411 of such  
6           title.

7           (b) PROCEDURES AND REMEDIES.—The procedures  
8           and remedies applicable to a claim alleged by an individual  
9           for a violation of this Act are—

10           (1) the procedures and remedies applicable for  
11           a violation of title VII of the Civil Rights Act of  
12           1964 (42 U.S.C. 2000e et seq.) in the case of a  
13           claim alleged by such individual for a violation of  
14           such title;

15           (2) the procedures and remedies applicable for  
16           a violation of section 302(a)(1) of the Government  
17           Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1))  
18           in the case of a claim alleged by such individual for  
19           a violation of such section;

20           (3) the procedures and remedies applicable for  
21           a violation of section 201(a)(1) of the Congressional  
22           Accountability Act of 1995 (2 U.S.C. 1311(a)(1)) in  
23           the case of a claim alleged by such individual for a  
24           violation of such section; and



1           (4) the procedures and remedies applicable for  
2           a violation of section 411 of title 3, United States  
3           Code, in the case of a claim alleged by such indi-  
4           vidual for a violation of such section.

5           (c) OTHER APPLICABLE PROVISIONS.—With respect  
6           to a claim alleged by a covered employee (as defined in  
7           section 101 of the Congressional Accountability Act of  
8           1995 (2 U.S.C. 1301)) for a violation of this Act, title  
9           III of the Congressional Accountability Act of 1995 (2  
10          U.S.C. 1381 et seq.) shall apply in the same manner as  
11          such title applies with respect to a claim alleged by such  
12          a covered employee for a violation of section 201(a)(1) of  
13          such Act (2 U.S.C. 1311(a)(1)).

14       **SEC. 11. STATE AND FEDERAL IMMUNITY.**

15          (a) ABROGATION OF STATE IMMUNITY.—A State  
16          shall not be immune under the 11th Amendment to the  
17          Constitution from a suit brought in a Federal court of  
18          competent jurisdiction for a violation of this Act.

19          (b) WAIVER OF STATE IMMUNITY.—

20                  (1) IN GENERAL.—

21                          (A) WAIVER.—A State’s receipt or use of  
22                          Federal financial assistance for any program or  
23                          activity of a State shall constitute a waiver of  
24                          sovereign immunity, under the 11th Amend-  
25                          ment to the Constitution or otherwise, to a suit

1 brought by an employee or applicant for em-  
2 ployment of that program or activity under this  
3 Act for a remedy authorized under subsection  
4 (d).

5 (B) DEFINITION.—In this paragraph, the  
6 term “program or activity” has the meaning  
7 given the term in section 606 of the Civil  
8 Rights Act of 1964 (42 U.S.C. 2000d–4a).

9 (2) EFFECTIVE DATE.—With respect to a par-  
10 ticular program or activity, paragraph (1) applies to  
11 conduct occurring on or after the day, after the date  
12 of enactment of this Act, on which a State first re-  
13 ceives or uses Federal financial assistance for that  
14 program or activity.

15 (c) REMEDIES AGAINST STATE OFFICIALS.—An offi-  
16 cial of a State may be sued in the official capacity of the  
17 official by any employee or applicant for employment who  
18 has complied with the applicable procedures of section 10,  
19 for equitable relief that is authorized under this Act. In  
20 such a suit the court may award to the prevailing party  
21 those costs authorized by section 722 of the Revised Stat-  
22 utes of the United States (42 U.S.C. 1988).

23 (d) REMEDIES AGAINST THE UNITED STATES AND  
24 THE STATES.—Notwithstanding any other provision of  
25 this Act, in an action or administrative proceeding against

1 the United States or a State for a violation of this Act,  
2 remedies (including remedies at law and in equity, and  
3 interest) are available for the violation to the same extent  
4 as the remedies are available for a violation of title VII  
5 of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.)  
6 by a private entity, except that—

- 7 (1) punitive damages are not available; and
- 8 (2) compensatory damages are available to the  
9 extent specified in section 1977A(b) of the Revised  
10 Statutes (42 U.S.C. 1981a(b)).

11 **SEC. 12. ATTORNEYS' FEES.**

12 Notwithstanding any other provision of this Act, in  
13 an action or administrative proceeding for a violation of  
14 this Act, an entity described in section 10(a) (other than  
15 paragraph (4) of such section), in the discretion of the  
16 entity, may allow the prevailing party, other than the  
17 Commission or the United States, a reasonable attorney's  
18 fee (including expert fees) as part of the costs. The Com-  
19 mission and the United States shall be liable for the costs  
20 to the same extent as a private person.

21 **SEC. 13. POSTING NOTICES.**

22 A covered entity who is required to post notices de-  
23 scribed in section 711 of the Civil Rights Act of 1964 (42  
24 U.S.C. 2000e–10) shall post notices for employees, appli-  
25 cants for employment, and members, to whom the provi-

1 sions specified in section 10(b) apply, that describe the  
2 applicable provisions of this Act in the manner prescribed  
3 by, and subject to the penalty provided under, section 711  
4 of the Civil Rights Act of 1964.

5 **SEC. 14. REGULATIONS.**

6 (a) IN GENERAL.—Except as provided in subsections  
7 (b), (c), and (d), the Commission shall have authority to  
8 issue regulations to carry out this Act.

9 (b) LIBRARIAN OF CONGRESS.—The Librarian of  
10 Congress shall have authority to issue regulations to carry  
11 out this Act with respect to employees and applicants for  
12 employment of the Library of Congress.

13 (c) BOARD.—The Board referred to in section  
14 10(a)(3) shall have authority to issue regulations to carry  
15 out this Act, in accordance with section 304 of the Con-  
16 gressional Accountability Act of 1995 (2 U.S.C. 1384),  
17 with respect to covered employees, as defined in section  
18 101 of such Act (2 U.S.C. 1301).

19 (d) PRESIDENT.—The President shall have authority  
20 to issue regulations to carry out this Act with respect to  
21 covered employees, as defined in section 411(c) of title 3,  
22 United States Code.

23 **SEC. 15. RELATIONSHIP TO OTHER LAWS.**

24 This Act shall not invalidate or limit the rights, rem-  
25 edies, or procedures available to an individual claiming

1 discrimination prohibited under any other Federal law or  
2 regulation or any law or regulation of a State or political  
3 subdivision of a State.

4 **SEC. 16. SEVERABILITY.**

5       If any provision of this Act, or the application of the  
6 provision to any person or circumstance, is held to be in-  
7 valid, the remainder of this Act and the application of the  
8 provision to any other person or circumstances shall not  
9 be affected by the invalidity.

10 **SEC. 17. EFFECTIVE DATE.**

11       This Act shall take effect on the date that is 6  
12 months after the date of enactment of this Act and shall  
13 not apply to conduct occurring before the effective date.

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