

ARKANSAS FAIR HOUSING COMMISSION

Enabling Laws

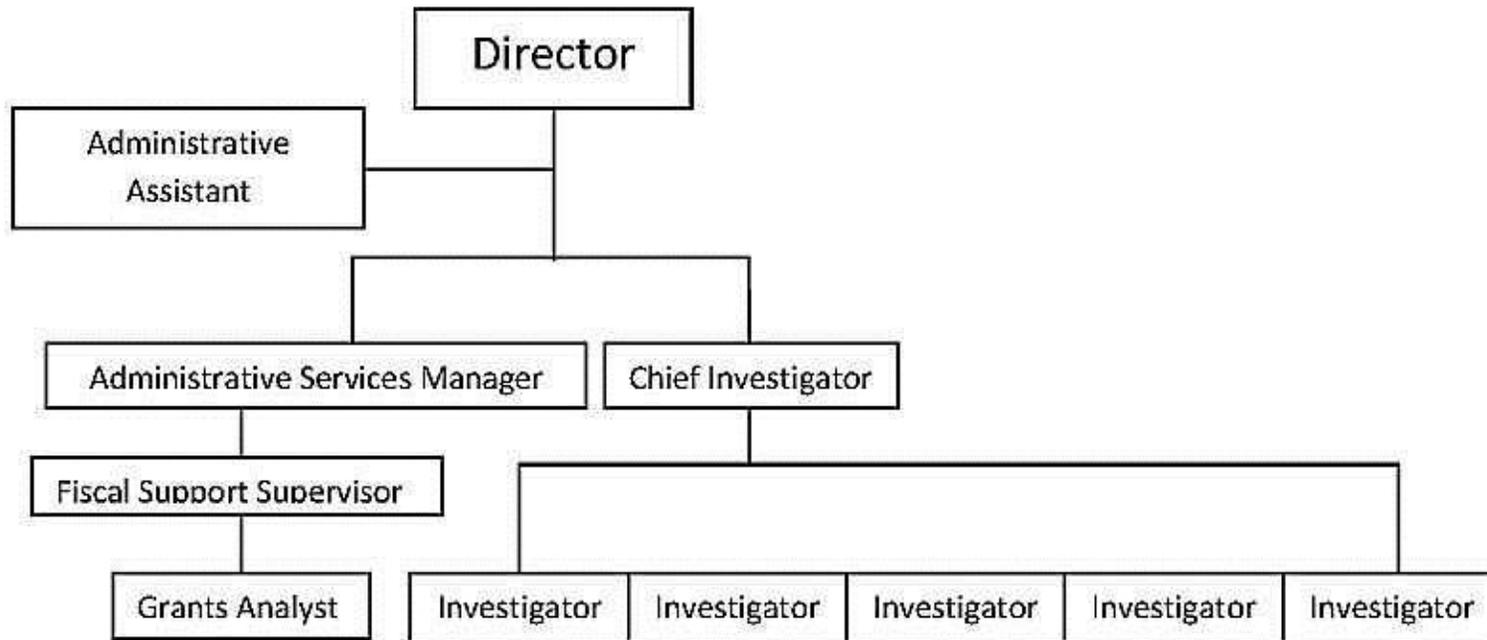
Act 75 of 2012
A.C.A. §16-123-301 et seq.

History and Organization

The Arkansas Legislature created the Arkansas Fair Housing Commission by Act 1785 of 2001. The Commission acts as a quasi-judicial, regulatory agency that enforces state and federal fair housing and fair lending laws with the authority to hold administrative hearings and litigate cases where discriminatory conduct is found to have occurred.

The mission of the Commission is to receive, investigate, conciliate and/or resolve complaints alleging violations of the Arkansas Fair Housing Act, which prohibits housing discrimination on the basis of race, religion, color, sex, national origin, familial status or disability; to cooperate with and provide technical and other assistance to federal, state, local and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practices; and to establish an education and outreach program to prevent discriminatory housing practices.

The Commission is composed of thirteen members: seven (7) are appointed by the Governor; three (3) are appointed by the President Pro Tempore of the Senate; and three (3) are appointed by the Speaker of the House. Six (6) of the appointees are industry representatives and seven represent various consumer interests. The Governor shall appoint a Commissioner from each of the state's four (4) Congressional Districts.



Agency Commentary

The Arkansas Fair Housing Commission was created in 2001 (codified at Ark. Code Ann. § 16-123-201 et seq.) for the purpose of:

- Receiving, investigating, conciliating and/or resolving complaints alleging violations of the Arkansas Fair Housing Act, which prohibits unfair housing and lending practices in lending, appraisal, sale, rental and occupancy based on seven (7) identified prohibited bases: race, color, religion, sex, national origin, familial status and disability;
- Receiving, investigating, conciliating and/or resolving complaints alleging violations of the Arkansas Fair Housing Act relating to the design and construction of accessible housing for the disabled and housing for the elderly;
- Assisting other entities (both public and private) in the formulation and operation of programs that prevent or eliminate unfair housing practices; and
- Providing for an education and outreach program to prevent unfair housing and lending practices.

This quasi-judicial agency is empowered with fair housing and fair lending regulatory and enforcement duties specifically relating to the responsibilities of private and public housing providers throughout the State of Arkansas. Additionally, the agency is responsible for the administrative and judicial adjudication of complaints through administrative or judicial hearings.

The Agency seeks an increase in Federal Fund appropriation in the amount of \$100,000 to support operation of Agency programs as required by state and federal statutes. Additionally, the Agency is requesting continuation of the Miscellaneous Federal Grant of position of Administrative Services Manager to accomplish its goals and objectives. This MFG position was funded by the U.S. Department of Housing and Urban Development during FY2012.

Fund Center: 1NH (State Operations)

The Agency requests Base Level appropriation increases supported by its current Federal Fund balance and additional supporting federal revenue. This change request will be supported by 100% federal funding.

The Agency requests Change Levels as follows:

00-Regular Salaries:

Increase in appropriation in the amount of \$57,797 to fund a market salary rate increase for the position of Agency Director and for the continuation of the Administrative Services Manager position. The market salary rate increase for the position of Agency Director is necessary to promote statewide equity in classification and compensation. The continuation of the MFG appropriation is necessary to meet the duties and obligations under the Agency HUD Partnership Grant funded by the U.S. Department of Housing and Urban Development in FY2012. These positions are necessary to ensure that the agency carries forth the legislative declaration that, "the right to seek housing underlies the general public's ability to secure health, safety and welfare." Ark. Code Ann. § 16-123-301.

The Arkansas Fair Housing Commission was established to support that legislative dictate to resolve fair housing and fair lending complaints and to enforce fair housing and fair lending laws within the State. The passage of the Arkansas Fair Housing Act gained the State of Arkansas recognition as being a "substantially equivalent" agency, meaning that the state law provided substantially the same protections as the federal law - thereby granting Arkansas the avenue to enforce its own fair housing and fair lending law within its own borders with minimal federal intervention.

As part of the "substantially equivalent" process, the Agency completed a three-year "capacity-building" phase during which time the Agency partnered with the U.S. Department of Housing and Urban Development via a cooperative agreement to receive, investigate and conciliate fair housing complaints within Arkansas. During this mandatory three-year "capacity-building" period, the Commission investigated a portion of the State's fair housing complaint caseload with HUD investigating the bulk of the fair housing complaints and providing technical assistance in support of our limited enforcement efforts.

The Commission has "graduated" to a "contributions agency" status with the responsibility of processing 100% of all fair housing violations within the State. In FY2012, this Agency received nearly 400 fair housing complaints for alleged infractions occurring within the State's borders and was responsible for resolving all of those complaints. Additionally, the Agency is responsible for providing technical assistance, education and outreach to housing providers and the general public, attorneys and other public and private entities.

In FY2012, the U.S. Department of Housing and Urban Development awarded the Agency a HUD Partnership Grant to assist in educating housing providers on HUD's new rule expanding protected classes to include sexual orientation and to bolster the Agency's existing fair housing and fair lending outreach efforts. The continuation of the Agency's existing MFG Administrative Services Manager position is necessary to meet the responsibilities and obligations under the existing HUD Partnership Grant. The Administrative Services Manager is responsible for the administration of all Agency HUD programs, including management of new fair housing/fair lending LGBT education and outreach activities to be conducted; the development and implementation of a statewide education and outreach campaign to include the public service announcements and other radio and print advertisements; and the development and implementation of regional workshops. Additionally, the Administrative Services Manager is responsible for oversight of the expansion of the HUD-funded AFHC Ambassador Program - a collaborative effort with institutions of higher education aimed at educating young adults on fair housing and fair lending issues.

Lastly, the Agency requests a salary market rate increase for the position of Agency Director to reflect comparable compensation with Agency Directors of similarly situated agencies and current market rates.

03-Matching:

Increase in appropriation and General Revenue funding in the amount of \$14,881 for personal services/matching increases associated with the salary market rate increase and the continuation of the MFG position of Administrative Services Manager.

02-Operating Expenses:

Increase in federal appropriation only in the amount of \$49,040 to support increased legal and case processing fees (to include the copying of files for hearings and trials and the copying of files for responses to discovery requests by legal counsel during the investigative and adjudicative processes); court reporting fees for administrative case processing; additional travel associated with case processing; and office supplies necessary to support the continuation of the Administrative Services Manager position (such as a computer, a desk/chair, additional telephone line, general office supplies and mileage allowance for necessary travel).

09-Conference and Travel Expenses:

Increase in federal appropriation only in the amount of \$55,000 to support staff training expenses to meet agency objectives and state and federal guidelines and to support agency-sponsored training activity. The additional federal appropriation is necessary for investigators to attend the National Fair Housing Training Academy in Washington, D.C., which is both sponsored and required by HUD for investigative training.

Center: 53L (Arkansas Fair Housing Commission Trust Fund)

The Agency requests appropriation in the amount of \$100,000 to satisfy statutory mandates for the Commission’s Education Trust Fund. The continued growth of the Agency’s Trust Fund is imminent due to the increase in investigative caseloads and the number of administrative hearings before the Commission. The Commission Trust Fund balance is sufficient to support this request for additional appropriation. Additionally, this request is justified due to the current and imminent increase in revenue associated with this growth. The Commission Trust Fund was established in 2001 (Ark. Code Ann. §16-123-347) for the purpose of receiving any administrative fees, civil penalties or conciliated amounts levied and collected to be solely used for fair housing education of the public and the operational expenses of the Commission.

The Agency requests Change Levels as follows:

02-Operating Expenses:

Increase in appropriation only in the amount of \$100,000 for education outreach and operation of the Commission. This appropriation is necessary for the Agency to utilize currently existing administrative and civil penalties and fees levied and collected pursuant to the Arkansas Fair Housing Act to provide fair housing and fair lending training and education of housing providers; the public; and for operational expenses of the Commission as mandated by the Legislature. This appropriation increase also will allow for the expense of future receipts of administrative fees and training fees, fines and civil penalties and conciliated amounts as provided for and codified at Ark. Code Ann. §16-123-321,32.

As per legislative mandates, the Commission will establish a state-wide fair housing media campaign to include: public service announcements (audio and video); television, radio and print advertisements; posters; pamphlets and brochures. The Commission also will continue to work with public and private service organizations and agencies to broaden and enhance its state-wide media campaign and to establish educational training programs for industry personnel and the public at large. As required by law, this training and education will be disseminated in compliance with the adaptability and accessibility guidelines and will include expenditures in advertising, conferences, seminars and educational and promotional materials.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS FAIR HOUSING COMMISSION
FOR THE YEAR ENDED JUNE 30, 2010

Findings	Recommendations
None	None

State Contracts Over \$25,000 Awarded To Minority Owned Businesses Fiscal Year 2012

None

Employment Summary

	Male	Female	Total	%
White Employees	0	3	3	43 %
Black Employees	1	2	3	43 %
Other Racial Minorities	1	0	1	14 %
Total Minorities			4	57 %
Total Employees			7	100 %

Publications

A.C.A. 25-1-204

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution
		Governor	General Assembly		
None	N/A	N	N	0	N/A

Department Appropriation Summary

Historical Data

Agency Request and Executive Recommendation

Appropriation	2011-2012		2012-2013		2012-2013		2013-2014						2014-2015					
	Actual	Pos	Budget	Pos	Authorized	Pos	Base Level	Pos	Agency	Pos	Executive	Pos	Base Level	Pos	Agency	Pos	Executive	Pos
1NH State Operations	608,763	10	835,579	10	709,897	10	744,332	10	923,908	11	853,630	11	744,332	10	923,908	11	853,630	11
53L Education-Trust	30,874	0	40,000	0	40,000	0	40,000	0	140,000	0	140,000	0	40,000	0	140,000	0	140,000	0
Total	639,637	10	875,579	10	749,897	10	784,332	10	1,063,908	11	993,630	11	784,332	10	1,063,908	11	993,630	11

Funding Sources		%		%		%		%		%		%		%		%		%	
Fund Balance	4000005	495,806	40.0	601,281	41.7			564,819	46.3	564,819	40.4	564,819	40.4	434,309	39.9	334,309	28.6	404,587	32.7
General Revenue	4000010	283,398	22.8	283,398	19.7			283,398	23.3	283,398	20.3	283,398	20.3	283,398	26.0	283,398	24.3	283,398	22.9
Federal Revenue	4000020	373,750	30.1	500,000	34.7			320,424	26.3	500,000	35.8	500,000	35.8	320,424	29.4	500,000	42.8	500,000	40.4
Trust Fund	4000050	87,964	7.1	50,000	3.5			50,000	4.1	50,000	3.6	50,000	3.6	50,000	4.6	50,000	4.3	50,000	4.0
Merit Adjustment Fund	4000055	0	0.0	5,719	0.4			0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Total Funds		1,240,918	100.0	1,440,398	100.0			1,218,641	100.0	1,398,217	100.0	1,398,217	100.0	1,088,131	100.0	1,167,707	100.0	1,237,985	100.0
Excess Appropriation/(Funding)		(601,281)		(564,819)				(434,309)		(334,309)		(404,587)		(303,799)		(103,799)		(244,355)	
Grand Total		639,637		875,579				784,332		1,063,908		993,630		784,332		1,063,908		993,630	

Budget exceeds Authorized Appropriation in 1NH fund due to a transfer from the Miscellaneous Federal Grant Holding Account.

Agency Position Usage Report

FY2010 - 2011						FY2011 - 2012						FY2012 - 2013					
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total	
10	7	3	10	0	30.00 %	10	8	3	11	-1	20.00 %	10	7	4	11	-1	30.00 %

Total Budgeted positions exceed Authorized due to positions authorized through the Miscellaneous Federal Grant process.

Analysis of Budget Request

Appropriation: 1NH - State Operations

Funding Sources: HUA - Miscellaneous Agencies Fund

The Arkansas Fair Housing Commission (AFHC) was created by Act 1785 of 2001 to investigate housing discrimination complaints and punish violators, in cooperation with the State Attorney General. Funding for the AFHC is derived from federal reimbursements by Fair Housing Assistance Program Funds and general revenue.

Base Level Regular Salaries and Personal Services Matching includes Career Service payments for eligible employees. Personal Services Matching also includes a \$20 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$410 per month. Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Merit Pay Increases. The Base Level request for Regular Salaries includes board member stipend payments.

The Agency is requesting a \$179,576 increase in appropriation for each year of the biennium which reflect the following:

- Regular Salaries and Personal Services Matching increase of \$75,536 which includes \$60,258 associated with the continuation of the MFG Administrative Services Manger Position and \$15,278 associated with upgrading the Agency Director position.
- Operating Expenses increase of \$49,040 to cover the cost of new educational supplies and materials, as well as the increase in cost associated with increases in caseloads such as case processing fees, travel and postage.
- Conference & Travel increase of \$55,000 to cover increases in Conference fees and to allow investigators to attend the National Fair Housing Training Academy in Washington, DC, which is required by HUD for investigative training.

The Executive Recommendation provides for the Agency Request except:

- Regular Salaries and Personal Services Matching increase of \$15,278 associated with upgrading the Agency Director position
- Conference & Travel increase of \$55,000

Appropriation Summary

Appropriation: 1NH - State Operations
Funding Sources: HUA - Miscellaneous Agencies Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			2013-2014			2014-2015		
		2011-2012 Actual	2012-2013 Budget	2012-2013 Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	311,358	438,446	363,318	393,869	451,666	439,246	393,869	451,666	439,246
#Positions		10	10	10	10	11	11	10	11	11
Extra Help	5010001	9,964	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000
#Extra Help		1	2	2	2	2	2	2	2	2
Personal Services Matching	5010003	119,523	149,547	133,033	136,917	154,656	151,798	136,917	154,656	151,798
Operating Expenses	5020002	147,497	152,687	138,647	138,647	187,687	187,687	138,647	187,687	187,687
Conference & Travel Expenses	5050009	19,525	40,000	20,000	20,000	75,000	20,000	20,000	75,000	20,000
Professional Fees	5060010	0	14,000	14,000	14,000	14,000	14,000	14,000	14,000	14,000
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Public Education	5900046	896	899	899	899	899	899	899	899	899
Total		608,763	835,579	709,897	744,332	923,908	853,630	744,332	923,908	853,630

Funding Sources										
Fund Balance	4000005	369,886	418,271		371,809	371,809	371,809	231,299	231,299	301,577
General Revenue	4000010	283,398	283,398		283,398	283,398	283,398	283,398	283,398	283,398
Federal Revenue	4000020	373,750	500,000		320,424	500,000	500,000	320,424	500,000	500,000
Merit Adjustment Fund	4000055	0	5,719		0	0	0	0	0	0
Total Funding		1,027,034	1,207,388		975,631	1,155,207	1,155,207	835,121	1,014,697	1,084,975
Excess Appropriation/(Funding)		(418,271)	(371,809)		(231,299)	(231,299)	(301,577)	(90,789)	(90,789)	(231,345)
Grand Total		608,763	835,579		744,332	923,908	853,630	744,332	923,908	853,630

Budget exceeds Authorized Appropriation due to a transfer from the Miscellaneous Federal Grant Holding Account.

Change Level by Appropriation

Appropriation: 1NH - State Operations
Funding Sources: HUA - Miscellaneous Agencies Fund

Agency Request

Change Level		2013-2014	Pos	Cumulative	% of BL	2014-2015	Pos	Cumulative	% of BL
BL	Base Level	744,332	10	744,332	100.0	744,332	10	744,332	100.0
C01	Existing Program	70,000	0	814,332	109.4	70,000	0	814,332	109.4
C02	New Program	34,040	0	848,372	114.0	34,040	0	848,372	114.0
C06	Restore Position/Approp	60,258	1	908,630	122.1	60,258	1	908,630	122.1
C11	Upgrade/Downgrade	15,278	0	923,908	124.1	15,278	0	923,908	124.1

Executive Recommendation

Change Level		2013-2014	Pos	Cumulative	% of BL	2014-2015	Pos	Cumulative	% of BL
BL	Base Level	744,332	10	744,332	100.0	744,332	10	744,332	100.0
C01	Existing Program	35,000	0	779,332	104.7	35,000	0	779,332	104.7
C02	New Program	14,040	0	793,372	106.6	14,040	0	793,372	106.6
C06	Restore Position/Approp	60,258	1	853,630	114.7	60,258	1	853,630	114.7
C11	Upgrade/Downgrade	0	0	853,630	114.7	0	0	853,630	114.7

Justification

C01	Reflects increases in Conference & Travel and Operating Expenses due to increased caseloads and expanded training requirements.
C02	Reflects increases in Operating Expenses and Conferences & Travel associated with purchasing new educational supplies, and new conference seminar fees.
C06	Represents the increase in Regular Salaries and Personal Services Matching that result from the continuation of the MFG Administrative Services Manager Position.
C11	Represents the increase in Regular Salaries and Personal Services Matching resulting from the requested upgrade for the Agency Director position.

Analysis of Budget Request

Appropriation: 53L - Education-Trust

Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

The Education - Trust Program was established by Act 1201 of 2007 and provides for fair housing education of the public and the operational expenses of the commission, as set out in A.C.A. §§16-123-301 through 16-123-348. Funding is derived from administrative or civil penalties levied and collected pursuant to §16-123-301.

Base Level Regular Salaries and Personal Services Matching includes Career Service payments for eligible employees. Personal Services Matching also includes a \$20 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$410 per month. Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Merit Pay Increases.

The Agency is requesting \$100,000 increase in appropriation for each year of biennium which will be funded by the Agency's fund balance. The Agency's request reflects the following:

- \$100,000 increase in Operating Expenses which will allow the Agency to fund a state-wide fair housing media campaign per its legislative mandate.

The Executive Recommendation provides for the Agency Request.

Appropriation Summary

Appropriation: 53L - Education-Trust

Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2011-2012 Actual	2012-2013 Budget	2012-2013 Authorized	2013-2014			2014-2015		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Operating Expenses	5020002	30,874	40,000	40,000	40,000	140,000	140,000	40,000	140,000	140,000
Conference & Travel Expenses	5050009	0	0	0	0	0	0	0	0	0
Professional Fees	5060010	0	0	0	0	0	0	0	0	0
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Total		30,874	40,000	40,000	40,000	140,000	140,000	40,000	140,000	140,000
Funding Sources										
Fund Balance	4000005	125,920	183,010		193,010	193,010	193,010	203,010	103,010	103,010
Trust Fund	4000050	87,964	50,000		50,000	50,000	50,000	50,000	50,000	50,000
Total Funding		213,884	233,010		243,010	243,010	243,010	253,010	153,010	153,010
Excess Appropriation/(Funding)		(183,010)	(193,010)		(203,010)	(103,010)	(103,010)	(213,010)	(13,010)	(13,010)
Grand Total		30,874	40,000		40,000	140,000	140,000	40,000	140,000	140,000

Change Level by Appropriation

Appropriation: 53L - Education-Trust
Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

Agency Request

Change Level		2013-2014	Pos	Cumulative	% of BL	2014-2015	Pos	Cumulative	% of BL
BL	Base Level	40,000	0	40,000	100.0	40,000	0	40,000	100.0
C01	Existing Program	100,000	0	140,000	350.0	100,000	0	140,000	350.0

Executive Recommendation

Change Level		2013-2014	Pos	Cumulative	% of BL	2014-2015	Pos	Cumulative	% of BL
BL	Base Level	40,000	0	40,000	100.0	40,000	0	40,000	100.0
C01	Existing Program	100,000	0	140,000	350.0	100,000	0	140,000	350.0

Justification

C01	\$100,000 increase in Operating Expenses will be funded through the Agency's fund balance and allow the Agency to fund a state-wide fair housing media campaign per its legislative mandate.								
-----	--	--	--	--	--	--	--	--	--