



Sen. Iris Y. Martinez

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09400SB0167sam001

LRB094 08351 WGH 43019 a

1 AMENDMENT TO SENATE BILL 167

2 AMENDMENT NO. _____. Amend Senate Bill 167 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Human Rights Act is amended by
5 changing Sections 1-102, 1-103, 3-102, 8A-104, and 8B-104 as
6 follows:

7 (775 ILCS 5/1-102) (from Ch. 68, par. 1-102)

8 (Text of Section before amendment by P.A. 93-1078)

9 Sec. 1-102. Declaration of Policy. It is the public policy
10 of this State:

11 (A) Freedom from Unlawful Discrimination. To secure for all
12 individuals within Illinois the freedom from discrimination
13 against any individual because of his or her race, color,
14 religion, sex, national origin, ancestry, age, marital status,
15 physical or mental handicap, military status, or unfavorable
16 discharge from military service in connection with employment,
17 real estate transactions, access to financial credit, and the
18 availability of public accommodations.

19 (B) Freedom from Sexual Harassment-Employment and Higher
20 Education. To prevent sexual harassment in employment and
21 sexual harassment in higher education.

22 (C) Freedom from Discrimination Based on Citizenship
23 Status-Employment. To prevent discrimination based on
24 citizenship status in employment.

1 (D) Freedom from Discrimination Based on Familial
2 Status-Real Estate Transactions. To prevent discrimination
3 based on familial status in real estate transactions.

4 (E) Public Health, Welfare and Safety. To promote the
5 public health, welfare and safety by protecting the interest of
6 all people in Illinois in maintaining personal dignity, in
7 realizing their full productive capacities, and in furthering
8 their interests, rights and privileges as citizens of this
9 State.

10 (F) Implementation of Constitutional Guarantees. To secure
11 and guarantee the rights established by Sections 17, 18 and 19
12 of Article I of the Illinois Constitution of 1970.

13 (G) Equal Opportunity, Affirmative Action. To establish
14 Equal Opportunity and Affirmative Action as the policies of
15 this State in all of its decisions, programs and activities,
16 and to assure that all State departments, boards, commissions
17 and instrumentalities rigorously take affirmative action to
18 provide equality of opportunity and eliminate the effects of
19 past discrimination in the internal affairs of State government
20 and in their relations with the public.

21 (H) Unfounded Charges. To protect citizens of this State
22 against unfounded charges of unlawful discrimination, sexual
23 harassment in employment and sexual harassment in higher
24 education, and discrimination based on citizenship status in
25 employment.

26 (Source: P.A. 87-579; 88-178.)

27 (Text of Section after amendment by P.A. 93-1078)

28 Sec. 1-102. Declaration of Policy. It is the public policy
29 of this State:

30 (A) Freedom from Unlawful Discrimination. To secure for all
31 individuals within Illinois the freedom from discrimination
32 against any individual because of his or her race, color,
33 religion, sex, national origin, ancestry, age, marital status,

1 physical or mental handicap, military status, sexual
2 orientation, or unfavorable discharge from military service in
3 connection with employment, real estate transactions, access
4 to financial credit, and the availability of public
5 accommodations.

6 (B) Freedom from Sexual Harassment-Employment and Higher
7 Education. To prevent sexual harassment in employment and
8 sexual harassment in higher education.

9 (C) Freedom from Discrimination Based on Citizenship
10 Status-Employment. To prevent discrimination based on
11 citizenship status in employment.

12 (D) Freedom from Discrimination Based on Familial
13 Status-Real Estate Transactions. To prevent discrimination
14 based on familial status in real estate transactions.

15 (D-1) Freedom from Discrimination Based on Source of
16 Income-Residential Rental Real Estate Transactions. To prevent
17 discrimination based on source of income in residential rental
18 real estate transactions.

19 (E) Public Health, Welfare and Safety. To promote the
20 public health, welfare and safety by protecting the interest of
21 all people in Illinois in maintaining personal dignity, in
22 realizing their full productive capacities, and in furthering
23 their interests, rights and privileges as citizens of this
24 State.

25 (F) Implementation of Constitutional Guarantees. To secure
26 and guarantee the rights established by Sections 17, 18 and 19
27 of Article I of the Illinois Constitution of 1970.

28 (G) Equal Opportunity, Affirmative Action. To establish
29 Equal Opportunity and Affirmative Action as the policies of
30 this State in all of its decisions, programs and activities,
31 and to assure that all State departments, boards, commissions
32 and instrumentalities rigorously take affirmative action to
33 provide equality of opportunity and eliminate the effects of
34 past discrimination in the internal affairs of State government

1 and in their relations with the public.

2 (H) Unfounded Charges. To protect citizens of this State
3 against unfounded charges of unlawful discrimination, sexual
4 harassment in employment and sexual harassment in higher
5 education, and discrimination based on citizenship status in
6 employment.

7 (Source: P.A. 93-1078, eff. 1-1-06.)

8 (775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

9 (Text of Section before amendment by P.A. 93-1078)

10 Sec. 1-103. General Definitions. When used in this Act,
11 unless the context requires otherwise, the term:

12 (A) Age. "Age" means the chronological age of a person who
13 is at least 40 years old, except with regard to any practice
14 described in Section 2-102, insofar as that practice concerns
15 training or apprenticeship programs. In the case of training or
16 apprenticeship programs, for the purposes of Section 2-102,
17 "age" means the chronological age of a person who is 18 but not
18 yet 40 years old.

19 (B) Aggrieved Party. "Aggrieved party" means a person who
20 is alleged or proved to have been injured by a civil rights
21 violation or believes he or she will be injured by a civil
22 rights violation under Article 3 that is about to occur.

23 (C) Charge. "Charge" means an allegation filed with the
24 Department by an aggrieved party or initiated by the Department
25 under its authority.

26 (D) Civil Rights Violation. "Civil rights violation"
27 includes and shall be limited to only those specific acts set
28 forth in Sections 2-102, 2-103, 2-105, 3-102, 3-103, 3-104,
29 3-104.1, 3-105, 4-102, 4-103, 5-102, 5A-102 and 6-101 of this
30 Act.

31 (E) Commission. "Commission" means the Human Rights
32 Commission created by this Act.

33 (F) Complaint. "Complaint" means the formal pleading filed

1 by the Department with the Commission following an
2 investigation and finding of substantial evidence of a civil
3 rights violation.

4 (G) Complainant. "Complainant" means a person including
5 the Department who files a charge of civil rights violation
6 with the Department or the Commission.

7 (H) Department. "Department" means the Department of Human
8 Rights created by this Act.

9 (I) Handicap. "Handicap" means a determinable physical or
10 mental characteristic of a person, including, but not limited
11 to, a determinable physical characteristic which necessitates
12 the person's use of a guide, hearing or support dog, the
13 history of such characteristic, or the perception of such
14 characteristic by the person complained against, which may
15 result from disease, injury, congenital condition of birth or
16 functional disorder and which characteristic:

17 (1) For purposes of Article 2 is unrelated to the
18 person's ability to perform the duties of a particular job
19 or position and, pursuant to Section 2-104 of this Act, a
20 person's illegal use of drugs or alcohol is not a handicap;

21 (2) For purposes of Article 3, is unrelated to the
22 person's ability to acquire, rent or maintain a housing
23 accommodation;

24 (3) For purposes of Article 4, is unrelated to a
25 person's ability to repay;

26 (4) For purposes of Article 5, is unrelated to a
27 person's ability to utilize and benefit from a place of
28 public accommodation.

29 (J) Marital Status. "Marital status" means the legal status
30 of being married, single, separated, divorced or widowed.

31 (J-1) Military Status. "Military status" means a person's
32 status on active duty in the armed forces of the United States,
33 status as a current member of any reserve component of the
34 armed forces of the United States, including the United States

1 Army Reserve, United States Marine Corps Reserve, United States
2 Navy Reserve, United States Air Force Reserve, and United
3 States Coast Guard Reserve, or status as a current member of
4 the Illinois Army National Guard or Illinois Air National
5 Guard.

6 (K) National Origin. "National origin" means the place in
7 which a person or one of his or her ancestors was born.

8 (L) Person. "Person" includes one or more individuals,
9 partnerships, associations or organizations, labor
10 organizations, labor unions, joint apprenticeship committees,
11 or union labor associations, corporations, the State of
12 Illinois and its instrumentalities, political subdivisions,
13 units of local government, legal representatives, trustees in
14 bankruptcy or receivers.

15 (M) Public Contract. "Public contract" includes every
16 contract to which the State, any of its political subdivisions
17 or any municipal corporation is a party.

18 (N) Religion. "Religion" includes all aspects of religious
19 observance and practice, as well as belief, except that with
20 respect to employers, for the purposes of Article 2, "religion"
21 has the meaning ascribed to it in paragraph (F) of Section
22 2-101.

23 (O) Sex. "Sex" means the status of being male or female.

24 (P) Unfavorable Military Discharge. "Unfavorable military
25 discharge" includes discharges from the Armed Forces of the
26 United States, their Reserve components or any National Guard
27 or Naval Militia which are classified as RE-3 or the equivalent
28 thereof, but does not include those characterized as RE-4 or
29 "Dishonorable".

30 (Q) Unlawful Discrimination. "Unlawful discrimination"
31 means discrimination against a person because of his or her
32 race, color, religion, national origin, ancestry, age, sex,
33 marital status, handicap, military status, or unfavorable
34 discharge from military service as those terms are defined in

1 this Section.

2 (Source: P.A. 93-941, eff. 8-16-04.)

3 (Text of Section after amendment by P.A. 93-1078)

4 Sec. 1-103. General Definitions. When used in this Act,
5 unless the context requires otherwise, the term:

6 (A) Age. "Age" means the chronological age of a person who
7 is at least 40 years old, except with regard to any practice
8 described in Section 2-102, insofar as that practice concerns
9 training or apprenticeship programs. In the case of training or
10 apprenticeship programs, for the purposes of Section 2-102,
11 "age" means the chronological age of a person who is 18 but not
12 yet 40 years old.

13 (B) Aggrieved Party. "Aggrieved party" means a person who
14 is alleged or proved to have been injured by a civil rights
15 violation or believes he or she will be injured by a civil
16 rights violation under Article 3 that is about to occur.

17 (C) Charge. "Charge" means an allegation filed with the
18 Department by an aggrieved party or initiated by the Department
19 under its authority.

20 (D) Civil Rights Violation. "Civil rights violation"
21 includes and shall be limited to only those specific acts set
22 forth in Sections 2-102, 2-103, 2-105, 3-102, 3-103, 3-104,
23 3-104.1, 3-105, 4-102, 4-103, 5-102, 5A-102 and 6-101 of this
24 Act.

25 (E) Commission. "Commission" means the Human Rights
26 Commission created by this Act.

27 (F) Complaint. "Complaint" means the formal pleading filed
28 by the Department with the Commission following an
29 investigation and finding of substantial evidence of a civil
30 rights violation.

31 (G) Complainant. "Complainant" means a person including
32 the Department who files a charge of civil rights violation
33 with the Department or the Commission.

1 (H) Department. "Department" means the Department of Human
2 Rights created by this Act.

3 (I) Handicap. "Handicap" means a determinable physical or
4 mental characteristic of a person, including, but not limited
5 to, a determinable physical characteristic which necessitates
6 the person's use of a guide, hearing or support dog, the
7 history of such characteristic, or the perception of such
8 characteristic by the person complained against, which may
9 result from disease, injury, congenital condition of birth or
10 functional disorder and which characteristic:

11 (1) For purposes of Article 2 is unrelated to the
12 person's ability to perform the duties of a particular job
13 or position and, pursuant to Section 2-104 of this Act, a
14 person's illegal use of drugs or alcohol is not a handicap;

15 (2) For purposes of Article 3, is unrelated to the
16 person's ability to acquire, rent or maintain a housing
17 accommodation;

18 (3) For purposes of Article 4, is unrelated to a
19 person's ability to repay;

20 (4) For purposes of Article 5, is unrelated to a
21 person's ability to utilize and benefit from a place of
22 public accommodation.

23 (I-5) Housing authority. "Housing authority" means either
24 a housing authority created under the Housing Authorities Act
25 or other government agency that is authorized by the United
26 States government under the United States Housing Act of 1937
27 to administer a housing choice voucher program, or the
28 authorized agent of such a housing authority that is authorized
29 to act upon that authority's behalf.

30 (J) Marital Status. "Marital status" means the legal status
31 of being married, single, separated, divorced or widowed.

32 (J-1) Military Status. "Military status" means a person's
33 status on active duty in the armed forces of the United States,
34 status as a current member of any reserve component of the

1 armed forces of the United States, including the United States
2 Army Reserve, United States Marine Corps Reserve, United States
3 Navy Reserve, United States Air Force Reserve, and United
4 States Coast Guard Reserve, or status as a current member of
5 the Illinois Army National Guard or Illinois Air National
6 Guard.

7 (K) National Origin. "National origin" means the place in
8 which a person or one of his or her ancestors was born.

9 (L) Person. "Person" includes one or more individuals,
10 partnerships, associations or organizations, labor
11 organizations, labor unions, joint apprenticeship committees,
12 or union labor associations, corporations, the State of
13 Illinois and its instrumentalities, political subdivisions,
14 units of local government, legal representatives, trustees in
15 bankruptcy or receivers.

16 (M) Public Contract. "Public contract" includes every
17 contract to which the State, any of its political subdivisions
18 or any municipal corporation is a party.

19 (N) Religion. "Religion" includes all aspects of religious
20 observance and practice, as well as belief, except that with
21 respect to employers, for the purposes of Article 2, "religion"
22 has the meaning ascribed to it in paragraph (F) of Section
23 2-101.

24 (O) Sex. "Sex" means the status of being male or female.

25 (O-1) Sexual orientation. "Sexual orientation" means
26 actual or perceived heterosexuality, homosexuality,
27 bisexuality, or gender-related identity, whether or not
28 traditionally associated with the person's designated sex at
29 birth. "Sexual orientation" does not include a physical or
30 sexual attraction to a minor by an adult.

31 (O-5) Source of Income. "Source of income" means any lawful
32 income, subsidy, or benefit with which an individual supports
33 himself or herself and his or her dependents, including, but
34 not limited to, child support, maintenance, and any federal,

1 State, or local public assistance, medical assistance, or
2 rental assistance program.

3 (P) Unfavorable Military Discharge. "Unfavorable military
4 discharge" includes discharges from the Armed Forces of the
5 United States, their Reserve components or any National Guard
6 or Naval Militia which are classified as RE-3 or the equivalent
7 thereof, but does not include those characterized as RE-4 or
8 "Dishonorable".

9 (Q) Unlawful Discrimination. "Unlawful discrimination"
10 means discrimination against a person because of his or her
11 race, color, religion, national origin, ancestry, age, sex,
12 marital status, handicap, military status, sexual orientation,
13 or unfavorable discharge from military service as those terms
14 are defined in this Section.

15 (Source: P.A. 93-941, eff. 8-16-04; 93-1078, eff. 1-1-06.)

16 (775 ILCS 5/3-102) (from Ch. 68, par. 3-102)

17 Sec. 3-102. Civil Rights Violations; Real Estate
18 Transactions) It is a civil rights violation for an owner or
19 any other person engaging in a real estate transaction, or for
20 a real estate broker or salesman, because of unlawful
21 discrimination or familial status or source of income in
22 connection with residential rental real estate transactions,
23 to

24 (A) Transaction. Refuse to engage in a real estate
25 transaction with a person or to discriminate in making
26 available such a transaction;

27 (B) Terms. Alter the terms, conditions or privileges of a
28 real estate transaction or in the furnishing of facilities or
29 services in connection therewith;

30 (C) Offer. Refuse to receive or to fail to transmit a bona
31 fide offer to engage in a real estate transaction from a
32 person;

33 (D) Negotiation. Refuse to negotiate for a real estate

1 transaction with a person;

2 (E) Representations. Represent to a person that real
3 property is not available for inspection, sale, rental, or
4 lease when in fact it is so available, or to fail to bring a
5 property listing to his or her attention, or to refuse to
6 permit him or her to inspect real property;

7 (F) Publication of Intent. Print, circulate, post, mail,
8 publish or cause to be so published a written or oral
9 statement, advertisement or sign, or to use a form of
10 application for a real estate transaction, or to make a record
11 or inquiry in connection with a prospective real estate
12 transaction, which expresses any limitation founded upon, or
13 indicates, directly or indirectly, an intent to engage in
14 unlawful discrimination;

15 (G) Listings. Offer, solicit, accept, use or retain a
16 listing of real property with knowledge that unlawful
17 discrimination or discrimination on the basis of familial
18 status in a real estate transaction is intended.

19 Nothing in this Section 3-102 or in any municipal or county
20 ordinance described in Section 7-108 of this Act shall require
21 a housing authority, its designated property manager, or any
22 other housing authority agents or assigns of any housing
23 development project in which 25% or more of the units are owned
24 by a housing authority or subject to a leasing agreement,
25 regulatory and operating agreement, or other similar
26 instrument with a housing authority to lease or rent another
27 unit of that same housing development project to an existing or
28 prospective tenant who is receiving subsidies, payment
29 assistance, contributions, or vouchers under or in connection
30 with the federal Housing Choice Voucher (also known as Section
31 8) program (42 U.S.C. 1437f) for payment of part or all of the
32 rent for the unit.

33 Nothing in this Section 3-102, except with respect to
34 written statements prohibited by subdivision (F) of this

1 Section, shall require or prevent any person whose property is
2 located in a municipality with fewer than 1,000,000
3 inhabitants, and is in a concentrated census tract where 3% of
4 the total housing stock in that census tract is occupied by
5 tenants relying on subsidies, payment assistance,
6 contributions, or vouchers under or in connection with the
7 federal Housing Choice Voucher (also known as Section 8)
8 program (42 U.S.C. 1437f) for payment of part of the rent for
9 the unit to lease or rent a unit to a prospective tenant who is
10 relying on such a subsidy, payment assistance, contribution, or
11 voucher for payment of part or all of the rent for the unit.
12 The housing authority shall determine which census tracts
13 within its service area meet the concentrated census tract
14 exemption requirements and annually deliver that information
15 to the municipalities within its jurisdiction.

16 Nothing in this Section 3-102 prevents an owner or agent
17 from taking into consideration factors other than lawful source
18 of income such as credit history, criminal history, or
19 references.

20 Nothing in this Section 3-102 shall require or prevent any
21 person whose property fails to meet federal Housing Quality
22 Standards in connection with the federal Housing Choice Voucher
23 (also known as Section 8) program (42 U.S.C. 1437f) to lease or
24 rent a unit to a prospective tenant who is relying on such a
25 subsidy, payment assistance, contribution, or voucher for
26 payment of part or all of the rent for such unit.

27 (Source: P.A. 86-910.)

28 (775 ILCS 5/8A-104) (from Ch. 68, par. 8A-104)

29 Sec. 8A-104. Relief; Penalties. Upon finding a civil rights
30 violation, a hearing officer may recommend and the Commission
31 or any three-member panel thereof may provide for any relief or
32 penalty identified in this Section, separately or in
33 combination, by entering an order directing the respondent to:

1 (A) Cease and Desist Order. Cease and desist from any
2 violation of this Act.

3 (B) Actual Damages. Pay actual damages, as reasonably
4 determined by the Commission, for injury or loss suffered by
5 the complainant.

6 (C) Hiring; Reinstatement; Promotion; Backpay; Fringe
7 Benefits. Hire, reinstate or upgrade the complainant with or
8 without back pay or provide such fringe benefits as the
9 complainant may have been denied.

10 (D) Restoration of Membership; Admission To Programs.
11 Admit or restore the complainant to labor organization
12 membership, to a guidance program, apprenticeship training
13 program, on the job training program, or other occupational
14 training or retraining program.

15 (E) Public Accommodations. Admit the complainant to a
16 public accommodation.

17 (F) Services. Extend to the complainant the full and equal
18 enjoyment of the goods, services, facilities, privileges,
19 advantages, or accommodations of the respondent.

20 (G) Attorneys Fees; Costs. Pay to the complainant all or a
21 portion of the costs of maintaining the action, including
22 reasonable attorney fees and expert witness fees incurred in
23 maintaining this action before the Department, the Commission
24 and in any judicial review and judicial enforcement
25 proceedings. Provided, however, that no award of attorney fees
26 or costs shall be made pursuant to this amendatory Act of 1987
27 with respect to any charge for which the complaint before the
28 Commission was filed prior to December 1, 1987. With respect to
29 all charges for which complaints were filed with the Commission
30 prior to December 1, 1987, attorney fees and costs shall be
31 awarded pursuant to the terms of this subsection as it existed
32 prior to revision by this amendatory Act of 1987.

33 (H) Compliance Report. Report as to the manner of
34 compliance.

1 (I) Posting of Notices. Post notices in a conspicuous place
2 which the Commission may publish or cause to be published
3 setting forth requirements for compliance with this Act or
4 other relevant information which the Commission determines
5 necessary to explain this Act.

6 (I-1) Training. Participate in training by the Department
7 or other such training as is necessary to prevent future civil
8 rights violations.

9 (J) Make Complainant Whole. Take such action as may be
10 necessary to make the individual complainant whole, including,
11 but not limited to, awards of interest on the complainant's
12 actual damages and backpay from the date of the civil rights
13 violation. Provided, however, that no award of prejudgment
14 interest shall be made pursuant to this amendatory Act of 1987
15 with respect to any charge in which the complaint before the
16 Commission was filed prior to December 1, 1987. With respect to
17 all charges for which complaints were filed with the Commission
18 prior to December 1, 1987, make whole relief shall be awarded
19 pursuant to this subsection as it existed prior to revision by
20 this amendatory Act of 1987.

21 There shall be no distinction made under this Section
22 between complaints filed by the Department and those filed by
23 the aggrieved party.

24 (Source: P.A. 86-910.)

25 (775 ILCS 5/8B-104) (from Ch. 68, par. 8B-104)

26 Sec. 8B-104. Relief; Penalties. Upon finding a civil rights
27 violation, a hearing officer may recommend and the Commission
28 or any three-member panel thereof may provide for any relief or
29 penalty identified in this Section, separately or in
30 combination, by entering an order directing the respondent to:

31 (A) Cease and Desist Order. Cease and desist from any
32 violation of this Act.

33 (B) Actual Damages. Pay actual damages, as reasonably

1 determined by the Commission, for injury or loss suffered by
2 the complainant.

3 (C) Civil Penalty. Pay a civil penalty to vindicate the
4 public interest:

5 (i) in an amount not exceeding \$10,000 if the respondent
6 has not been adjudged to have committed any prior civil rights
7 violation under Article 3;

8 (ii) in an amount not exceeding \$25,000 if the respondent
9 has been adjudged to have committed one other civil rights
10 violation under Article 3 during the 5-year period ending on
11 the date of the filing of this charge; and

12 (iii) in an amount not exceeding \$50,000 if the respondent
13 has been adjudged to have committed 2 or more civil rights
14 violations under Article 3 during the 7-year period ending on
15 the date of the filing of this charge; except that if the acts
16 constituting the civil rights violation that is the object of
17 the charge are committed by the same natural person who has
18 been previously adjudged to have committed acts constituting a
19 civil rights violation under Article 3, then the civil
20 penalties set forth in subparagraphs (ii) and (iii) may be
21 imposed without regard to the period of time within which any
22 subsequent civil rights violation under Article 3 occurred.

23 (D) Attorney Fees; Costs. Pay to the complainant all or a
24 portion of the costs of maintaining the action, including
25 reasonable attorneys fees and expert witness fees incurred in
26 maintaining this action before the Department, the Commission
27 and in any judicial review and judicial enforcement
28 proceedings.

29 (E) Compliance Report. Report as to the manner of
30 compliance.

31 (F) Posting of Notices. Post notices in a conspicuous place
32 which the Commission may publish or cause to be published
33 setting forth requirements for compliance with this Act or
34 other relevant information which the Commission determines

1 necessary to explain this Act.

2 (F-1) Training. Participate in Fair Housing training by the
3 Department or other such training as is necessary to prevent
4 future civil rights violations.

5 (G) Make Complainant Whole. Take such action as may be
6 necessary to make the individual complainant whole, including,
7 but not limited to, awards of interest on the complainant's
8 actual damages from the date of the civil rights violation.

9 (Source: P.A. 86-910.)

10 Section 95. No acceleration or delay. Where this Act makes
11 changes in a statute that is represented in this Act by text
12 that is not yet or no longer in effect (for example, a Section
13 represented by multiple versions), the use of that text does
14 not accelerate or delay the taking effect of (i) the changes
15 made by this Act or (ii) provisions derived from any other
16 Public Act.

17 Section 99. Effective date. This Act takes effect January
18 31, 2006."