



# House of Representatives

General Assembly

**File No. 481**

February Session, 2004

Substitute House Bill No. 5215

*House of Representatives, April 6, 2004*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING THE PROCESSING OF HOUSING  
DISCRIMINATION COMPLAINTS BY THE COMMISSION ON HUMAN  
RIGHTS AND OPPORTUNITIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 46a-83 of the general statutes, as  
2 amended by section 193 of public act 03-6 of the June 30 special  
3 session, is repealed and the following is substituted in lieu thereof  
4 (*Effective from passage*):

5 (d) (1) Before issuing a finding of reasonable cause or no reasonable  
6 cause, the investigator shall afford each party and his representative an  
7 opportunity to provide written or oral comments on all evidence in the  
8 commission's file, except as otherwise provided by federal law or any  
9 other provision of the general statutes. The investigator shall consider  
10 such comments in making his determination. The investigator shall  
11 make a finding of reasonable cause or no reasonable cause in writing  
12 and shall list the factual findings on which it is based not later than one

13 hundred ninety days from the date of the determination based on the  
14 review of the complaint, conducted pursuant to subsection (b) of this  
15 section, except that for good cause shown, the executive director or his  
16 designee may grant no more than two extensions of the investigation  
17 of three months each.

18 (2) If the investigator makes a determination that there is reasonable  
19 cause to believe that a violation of section 46a-64c has occurred, the  
20 complainant and the respondent shall have twenty days from receipt  
21 of notice of the reasonable cause finding to elect a civil action in lieu of  
22 an administrative hearing pursuant to section 46a-84, as amended. If  
23 either the complainant or the respondent requests a civil action, the  
24 commission, through the Attorney General or a commission legal  
25 counsel, shall commence an action pursuant to subsection (b) of section  
26 46a-89, as amended by this act, within [forty-five] ninety days of  
27 receipt of the complainant's or the respondent's notice of election of a  
28 civil action. If the Attorney General or a commission legal counsel, and  
29 a commissioner, believe that injunctive relief, punitive damages or a  
30 civil penalty would be appropriate, such relief, damages or penalty  
31 may also be sought pursuant to said subsection. Any civil action  
32 brought under this subdivision shall be limited to such claims,  
33 counterclaims, defenses or the like that would be required for the  
34 commission to have jurisdiction over the complaint had the complaint  
35 remained with the commission for disposition. If the Attorney General  
36 or a commission legal counsel determines that a material mistake of  
37 law or fact has been made in such finding of reasonable cause, the  
38 Attorney General or a commission legal counsel may decline to bring a  
39 civil action and, in such case, shall remand the file to the investigator  
40 for further action.

41 Sec. 2. Section 46a-89 of the general statutes is repealed and the  
42 following is substituted in lieu thereof (*Effective from passage*):

43 (a) (1) Whenever a complaint is filed with or by the commission  
44 pursuant to section 46a-82 alleging a violation of section 46a-60 or 46a-  
45 81c, and a commissioner believes, upon review and the

46 recommendation of the investigator assigned, that equitable relief is  
47 required to prevent irreparable harm to the complainant, the  
48 commissioner may bring a petition in equity in the superior court [in]  
49 for the judicial district in which the discriminatory practice which is  
50 the subject of the complaint occurred or [in] the judicial district in  
51 which the respondent resides, provided this subdivision shall not  
52 apply to complaints against employers with less than fifty employees.

53 (2) The petition shall seek appropriate temporary injunctive relief  
54 against the respondent pending final disposition of the complaint  
55 pursuant to the procedures set forth in this chapter. The injunctive  
56 relief may include an order temporarily restraining the respondent  
57 from doing any act which would render ineffectual any order a  
58 presiding officer may render with respect to the complaint.

59 (3) Upon service on the respondent of notice pursuant to section  
60 46a-89a, the respondent shall be temporarily restrained from taking  
61 any action which would render ineffectual the temporary injunctive  
62 relief prayed for in the petition, provided nothing in this section shall  
63 be construed to prevent the respondent from having any employment  
64 duties, enjoined under this section and section 46a-89a, from being  
65 carried out by another employee and the notice shall so provide.

66 (b) (1) Whenever a complaint [is filed with or by the commission]  
67 filed pursuant to section 46a-82 [alleging] alleges a violation of section  
68 46a-64, 46a-64c, 46a-81d or 46a-81e, [concerning the sale or rental of a  
69 dwelling or commercial property,] and a commissioner believes [upon  
70 review and the recommendation of the investigator assigned, that  
71 equitable] that injunctive relief is required or that the imposition of  
72 punitive damages or a civil penalty would be appropriate, the  
73 [commissioner] commission may bring a petition in the superior court  
74 [in] for the judicial district in which the discriminatory practice which  
75 is the subject of the complaint occurred or [in] the judicial district in  
76 which the respondent resides.

77 (2) The petition shall [(A) seek appropriate injunctive relief against  
78 the respondent] seek: (A) Appropriate injunctive relief, including

79 temporary or permanent orders or decrees restraining and enjoining  
80 [him] the respondent from selling or renting to anyone other than the  
81 complainant or otherwise making unavailable to the complainant any  
82 dwelling or commercial property with respect to which the complaint  
83 is made, pending the final determination of [proceedings on such  
84 complaint, or (B) seeking] such complaint by the commission or such  
85 petition by the court; (B) an award of damages based on the remedies  
86 available under subsection (c) of section 46a-86; [and] (C) an award of  
87 punitive damages payable to the complainant, not to exceed fifty  
88 thousand dollars; [, or (C) seeking] (D) a civil penalty payable to the  
89 state against the respondent to vindicate the public interest: (i) In an  
90 amount not exceeding ten thousand dollars if the respondent has not  
91 been adjudged to have committed any prior discriminatory housing  
92 practice; (ii) in an amount not exceeding twenty-five thousand dollars  
93 if the respondent has been adjudged to have committed one other  
94 discriminatory housing practice during the five-year period prior to  
95 the date of the filing of this complaint; and (iii) in an amount not  
96 exceeding fifty thousand dollars if the respondent has been adjudged  
97 to have committed two or more discriminatory housing practices  
98 during the seven-year period prior to the date of the filing of the  
99 complaint; except that if the acts constituting the discriminatory  
100 housing practice that is the object of the complaint are committed by  
101 the same natural person who has been previously adjudged to have  
102 committed acts constituting a discriminatory housing practice, then the  
103 civil penalties set forth in [subparagraphs] clauses (ii) and (iii) of this  
104 subparagraph may be imposed without regard to the period of time  
105 within which any subsequent discriminatory housing practice  
106 occurred; or [(D) seeking] (E) two or more of [these] such remedies.

107 (3) Upon service on the respondent of notice pursuant to section  
108 46a-89a, the respondent shall be temporarily restrained from selling or  
109 renting the dwelling or commercial property which is the subject of the  
110 complaint to anyone other than the complainant, or from otherwise  
111 making such dwelling or commercial property unavailable to the  
112 complainant, until the court or judge has decided the petition for  
113 temporary injunctive relief [,] and the notice shall so provide.

114 [(c) The commission shall incorporate in and make a part of its  
115 petition in equity its complaint against the respondent and its prayers  
116 for relief.]

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Human Rights & Opportunities, Com.; Attorney General	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill makes several changes to laws involving housing discrimination complaints filed with the Commission on Human Rights and Opportunities (CHRO).

The bill also clarifies the remedies that the Office of the Attorney General (OAG) has at its discretion with respect to pursuing a civil case in Superior Court. It provides that the OAG can decline to pursue action if there is a material mistake of law or fact by the CHRO investigator. There is no related fiscal impact to the OAG or CHRO.

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**OLR BILL ANALYSIS**

sHB 5215

***AN ACT CONCERNING THE PROCESSING OF HOUSING DISCRIMINATION COMPLAINTS BY THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES***

**SUMMARY:**

The bill makes several changes to the laws involving housing discrimination complaints filed with the Commission on Human Rights and Opportunities (CHRO).

Specifically, the bill:

1. gives CHRO 90, instead of 45, days to bring a housing discrimination complaint to court after an investigator makes a finding of reasonable cause that discrimination occurred and one of the party requests a court resolution rather than an administrative hearing;
2. authorizes injunctive relief, punitive damages, or a civil penalty in such cases under certain circumstances;
3. authorizes such cases to be returned to CHRO for further investigation under certain circumstances;
4. limits what claims, counterclaims, or defenses can be raised in such cases;
5. alters the procedures CHRO must follow when it goes to court to seek punitive damages, a civil penalty, or equitable relief and extends CHRO's authority to file a petition in court to pursue these remedies in public accommodation discrimination cases; and
6. automatically restrains property owners from making their property unavailable to a complainant while the court considers a petition to grant a temporary restraining order against the

property owner.

EFFECTIVE DATE: Upon passage

### **HOUSING DISCRIMINATION COMPLAINTS**

By law, if a CHRO investigator finds there is reasonable cause that housing discrimination has occurred, either the complainant or respondent may choose to go directly to court instead of having the case resolved at an administrative hearing. The bill gives CHRO 90, instead of 45, days to bring such a case to court.

The bill authorizes CHRO to seek injunctive relief, punitive damages, or a civil penalty in such a case if the attorney general (AG) or a CHRO legal counsel, and a commissioner, believe that it would be appropriate.

The bill authorizes the AG or a CHRO legal counsel to refuse to bring such a civil action and instead to remand the file to the investigator for further action if either one determines that a material mistake of law or fact has been made in such reasonable cause finding.

Finally, the bill limits housing discrimination cases CHRO brings to court at the election of the complainant or respondent to whatever claims, counterclaims, or defenses would be required for CHRO to have jurisdiction over the complaint had the complaint remained with it for disposition.

### **PETITIONS TO SEEK PUNITIVE DAMAGES, CIVIL PENALTY, OR EQUITABLE RELIEF**

Under existing law, CHRO may go to court to seek punitive damages, a civil penalty, or equitable relief (injunctions and other court orders) in cases involving the sale or renting of a dwelling or commercial property. The bill alters the procedures CHRO must follow by:

1. authorizing CHRO, instead of an individual CHRO commissioner, to initiate the court proceeding and
2. eliminating the requirement that a CHRO investigator review the matter and recommend the court action before it may be brought to court.

Also, the bill extends the authority to go to court to seek these remedies to cases involving discrimination in places of public accommodation, resort, or amusement.

Regarding court proceedings CHRO initiates to obtain punitive damages, a civil penalty, or equitable relief, the bill:

1. specifies that the court orders may be temporary or permanent and
2. authorizes CHRO to seek whatever relief it believes will make the complainant whole.

**AUTOMATIC RESTRICTION ON MAKING PROPERTY UNAVAILABLE TO COMPLAINANTS**

By law, when a respondent is served notice that CHRO has gone to court to seek equitable relief, punitive damages, or a civil penalty, he is automatically restrained from selling or renting the dwelling or commercial property to anyone other than the complainant until the court has acted on the request for a restraining order. The bill expands this to also automatically restrain the respondent from otherwise making the property unavailable to the complainant.

**BACKGROUND**

***Place of Public Accommodation, Amusement, or Resort***

“Place of public accommodation, resort or amusement” means any establishment that caters or offers its services or facilities or goods to the general public, including, but not limited to, any commercial property or building lot, on which it is intended that a commercial building will be constructed or offered for sale or rent (CGS § 46a-63).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute  
Yea 42 Nay 0