



# House of Representatives

**File No. 645**

General Assembly

February Session, 2004

**(Reprint of File No. 481)**

Substitute House Bill No. 5215  
As Amended by House  
Amendment Schedules "A" and "B"

Approved by the Legislative Commissioner  
April 23, 2004

**AN ACT CONCERNING THE PROCESSING OF HOUSING  
DISCRIMINATION COMPLAINTS BY AND THE LEGAL STAFF OF 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3 session, is repealed and the following is substituted in lieu thereof  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. The investigator shall complete any such action not  
41 later than ninety days after receipt of such file.

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 Section 46a-89 of the general statutes is repealed and the  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

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

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

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

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

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

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

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

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

114 temporary injunctive relief [.] and the notice shall so provide.

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

118 Sec. 3. Subdivision (3) of section 46a-54 of the general statutes, as  
119 amended by section 190 of public act 03-6 of the June 30 special  
120 session, is repealed and the following is substituted in lieu thereof  
121 (*Effective from passage*):

122 (3) To employ legal staff as necessary to perform the duties and  
123 responsibilities under section 46a-55, as amended by this act, one of  
124 whom shall serve as supervising attorney and each of whom shall be a  
125 member of the bar of this state.

126 Sec. 4. Section 46a-55 of the general statutes, as amended by section  
127 191 of public act 03-6 of the June 30 special session, is repealed and the  
128 following is substituted in lieu thereof (*Effective from passage*):

129 The executive director, through the supervising attorney, shall  
130 assign a commission legal counsel to represent the commission in any  
131 proceeding wherein any state agency or state officer is an adversary  
132 party and [may] to represent the commission in such other matters as  
133 the commission and the Attorney General may jointly prescribe. [Each  
134 commission legal counsel shall be a member of the bar of this state and  
135 shall report to the executive director on a day-to-day basis.]

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>

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:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Human Rights & Opportunities, Com.	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 and has no fiscal impact.

House "A" requires the legal staff to have one supervising attorney and for each member of the legal staff to be a member of the bar of Connecticut. This has no fiscal impact.

House "B" requires the investigator to complete actions within 90 days of receipt. This has no fiscal impact.

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**OLR BILL ANALYSIS**

sHB 5215 (as amended by House "A" and "B")\*

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

**SUMMARY:**

This 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 and requires that investigations be completed within 90 days;
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.

Also, the bill requires that one of the attorneys appointed by CHRO must serve as supervisory attorney. And it requires that when CHRO's executive director assigns legal counsel to represent it, he do so though the supervisory attorney.

EFFECTIVE DATE: Upon passage

\*House Amendment "A" adds the provisions concerning the CHRO supervisory attorney.

\*House Amendment "B" requires that the investigator complete the investigation within 90 days after it is returned for further action.

### **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. The bill requires the investigator to complete any further investigation within 90 days after he receives the file.

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 if the complaint had 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