



Substitute Senate Bill No. 1073

Public Act No. 05-201

AN ACT CONCERNING THE SUPERVISION OF THE LEGAL STAFF OF AND 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:

Section 1. Subdivision (3) of section 46a-54 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(3) To employ legal staff and commission legal counsel as necessary to perform the duties and responsibilities under section 46a-55, as amended by this act. One commission legal counsel shall serve as supervising attorney. Each commission legal counsel shall be admitted to practice law in this state.

Sec. 2. Section 46a-55 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The executive director, through the supervising attorney, shall assign a commission legal counsel to represent the commission in any proceeding wherein any state agency or state officer is an adversary party and [may represent the commission] in such other matters as the commission and the Attorney General may jointly prescribe. [Each

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commission legal counsel shall be a member of the bar of this state and shall report to the executive director on a day-to-day basis.]

Sec. 3. Subsection (d) of section 46a-83 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) (1) Before issuing a finding of reasonable cause or no reasonable cause, the investigator shall afford each party and his representative an opportunity to provide written or oral comments on all evidence in the commission's file, except as otherwise provided by federal law or any other provision of the general statutes. The investigator shall consider such comments in making his determination. The investigator shall make a finding of reasonable cause or no reasonable cause in writing and shall list the factual findings on which it is based not later than one hundred ninety days from the date of the determination based on the review of the complaint, conducted pursuant to subsection (b) of this section, except that for good cause shown, the executive director or his designee may grant no more than two extensions of the investigation of three months each.

(2) If the investigator makes a determination that there is reasonable cause to believe that a violation of section 46a-64c has occurred, the complainant and the respondent shall have twenty days from receipt of notice of the reasonable cause finding to elect a civil action in lieu of an administrative hearing pursuant to section 46a-84. If either the complainant or the respondent requests a civil action, the commission, through the Attorney General or a commission legal counsel, shall commence an action pursuant to subsection (b) of section 46a-89, as amended by this act, within [forty-five] ninety days of receipt of the complainant's or the respondent's notice of election of a civil action. If the Attorney General or a commission legal counsel, and a commissioner, believe that injunctive relief, punitive damages or a civil penalty would be appropriate, such relief, damages or penalty may

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also be sought pursuant to said subsection. Any civil action brought under this subdivision shall be limited to such claims, counterclaims, defenses or the like that would be required for the commission to have jurisdiction over the complaint had the complaint remained with the commission for disposition. If the Attorney General or a commission legal counsel determines that a material mistake of law or fact has been made in such finding of reasonable cause, the Attorney General or a commission legal counsel may decline to bring a civil action and, in such case, shall remand the file to the investigator for further action. The investigator shall complete any such action not later than ninety days after receipt of such file.

Sec. 4. Section 46a-89 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) Whenever a complaint is filed with or by the commission pursuant to section 46a-82 alleging a violation of section 46a-60 or 46a-81c, and a commissioner believes, upon review and the recommendation of the investigator assigned, that equitable relief is required to prevent irreparable harm to the complainant, the commissioner may bring a petition in equity in the superior court [in] for the judicial district in which the discriminatory practice which is the subject of the complaint occurred or [in] the judicial district in which the respondent resides, provided this subdivision shall not apply to complaints against employers with less than fifty employees.

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

(3) Upon service on the respondent of notice pursuant to section

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46a-89a, the respondent shall be temporarily restrained from taking any action [which] that would render ineffectual the temporary injunctive relief prayed for in the petition, provided nothing in this section shall be construed to prevent the respondent from having any employment duties, enjoined under this section and section 46a-89a, from being carried out by another employee and the notice shall so provide.

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

(2) The petition shall [(A) seek appropriate injunctive relief against the respondent] seek: (A) Appropriate injunctive relief, including temporary or permanent orders or decrees restraining and enjoining [him] the respondent from selling or renting to anyone other than the complainant or otherwise making unavailable to the complainant any dwelling or commercial property with respect to which the complaint is made, pending the final determination of [proceedings on such complaint, or (B) seeking] such complaint by the commission or such petition by the court; (B) an award of damages based on the remedies available under subsection (c) of section 46a-86; [and] (C) an award of punitive damages payable to the complainant, not to exceed fifty thousand dollars; [, or (C) seeking] (D) a civil penalty payable to the state against the respondent to vindicate the public interest: (i) In an

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amount not exceeding ten thousand dollars if the respondent has not been adjudged to have committed any prior discriminatory housing practice; (ii) in an amount not exceeding twenty-five thousand dollars if the respondent has been adjudged to have committed one other discriminatory housing practice during the five-year period prior to the date of the filing of this complaint; and (iii) in an amount not exceeding fifty thousand dollars if the respondent has been adjudged to have committed two or more discriminatory housing practices during the seven-year period prior to the date of the filing of the complaint; except that if the acts constituting the discriminatory housing practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in [subparagraphs] clauses (ii) and (iii) of this subparagraph may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred; or [(D) seeking] (E) two or more of [these] such remedies.

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

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

Approved July 6, 2005