



Senate

General Assembly

File No. 607

January Session, 2005

Substitute Senate Bill No. 1073

Senate, May 2, 2005

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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:

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2 repealed and the following is substituted in lieu thereof (*Effective from*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

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

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 Section 46a-55 of the general statutes is repealed and the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

11 The executive director, through the supervising attorney, shall
12 assign a commission legal counsel to represent the commission in any
13 proceeding wherein any state agency or state officer is an adversary
14 party and [may represent the commission] in such other matters as the
15 commission and the Attorney General may jointly prescribe. [Each
16 commission legal counsel shall be a member of the bar of this state and
17 shall report to the executive director on a day-to-day basis.]

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19 repealed and the following is substituted in lieu thereof (*Effective from*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

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

34 (2) If the investigator makes a determination that there is reasonable
35 cause to believe that a violation of section 46a-64c has occurred, the
36 complainant and the respondent shall have twenty days from receipt
37 of notice of the reasonable cause finding to elect a civil action in lieu of
38 an administrative hearing pursuant to section 46a-84. If either the
39 complainant or the respondent requests a civil action, the commission,
40 through the Attorney General or a commission legal counsel, shall
41 commence an action pursuant to subsection (b) of section 46a-89, as
42 amended by this act, within [forty-five] ninety days of receipt of the
43 complainant's or the respondent's notice of election of a civil action. If

44 the Attorney General or a commission legal counsel, and a
45 commissioner, believe that injunctive relief, punitive damages or a civil
46 penalty would be appropriate, such relief, damages or penalty may
47 also be sought pursuant to said subsection. Any civil action brought
48 under this subdivision shall be limited to such claims, counterclaims,
49 defenses or the like that would be required for the commission to have
50 jurisdiction over the complaint had the complaint remained with the
51 commission for disposition. If the Attorney General or a commission
52 legal counsel determines that a material mistake of law or fact has been
53 made in such finding of reasonable cause, the Attorney General or a
54 commission legal counsel may decline to bring a civil action and, in
55 such case, shall remand the file to the investigator for further action.
56 The investigator shall complete any such action not later than ninety
57 days after receipt of such file.

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

60 (a) (1) Whenever a complaint is filed with or by the commission
61 pursuant to section 46a-82 alleging a violation of section 46a-60 or 46a-
62 81c, and a commissioner believes, upon review and the
63 recommendation of the investigator assigned, that equitable relief is
64 required to prevent irreparable harm to the complainant, the
65 commissioner may bring a petition in equity in the superior court [in]
66 for the judicial district in which the discriminatory practice which is
67 the subject of the complaint occurred or [in] the judicial district in
68 which the respondent resides, provided this subdivision shall not
69 apply to complaints against employers with less than fifty employees.

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

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

77 46a-89a, the respondent shall be temporarily restrained from taking
78 any action [which] that would render ineffectual the temporary
79 injunctive relief prayed for in the petition, provided nothing in this
80 section shall be construed to prevent the respondent from having any
81 employment duties, enjoined under this section and section 46a-89a,
82 from being carried out by another employee and the notice shall so
83 provide.

84 (b) (1) Whenever a complaint [is filed with or by the commission]
85 filed pursuant to section 46a-82 [alleging] alleges a violation of section
86 46a-64, 46a-64c, 46a-81d or 46a-81e₂ [concerning the sale or rental of a
87 dwelling or commercial property,] and a commissioner believes [upon
88 review and the recommendation of the investigator assigned, that
89 equitable] that injunctive relief is required or that the imposition of
90 punitive damages or a civil penalty would be appropriate, the
91 [commissioner] commission may bring a petition in the superior court
92 [in] for the judicial district in which the discriminatory practice which
93 is the subject of the complaint occurred or [in] the judicial district in
94 which the respondent resides.

95 (2) The petition shall [(A) seek appropriate injunctive relief against
96 the respondent] seek: (A) Appropriate injunctive relief, including
97 temporary or permanent orders or decrees restraining and enjoining
98 [him] the respondent from selling or renting to anyone other than the
99 complainant or otherwise making unavailable to the complainant any
100 dwelling or commercial property with respect to which the complaint
101 is made, pending the final determination of [proceedings on such
102 complaint, or (B) seeking] such complaint by the commission or such
103 petition by the court; (B) an award of damages based on the remedies
104 available under subsection (c) of section 46a-86; [and] (C) an award of
105 punitive damages payable to the complainant, not to exceed fifty
106 thousand dollars; [, or (C) seeking] (D) a civil penalty payable to the
107 state against the respondent to vindicate the public interest: (i) In an
108 amount not exceeding ten thousand dollars if the respondent has not
109 been adjudged to have committed any prior discriminatory housing
110 practice; (ii) in an amount not exceeding twenty-five thousand dollars

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

125 (3) Upon service on the respondent of notice pursuant to section
 126 46a-89a, the respondent shall be temporarily restrained from selling or
 127 renting the dwelling or commercial property which is the subject of the
 128 complaint to anyone other than the complainant, or from otherwise
 129 making such dwelling or commercial property unavailable to the
 130 complainant, until the court or judge has decided the petition for
 131 temporary injunctive relief [.] and the notice shall so provide.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	46a-54(3)
Sec. 2	<i>from passage</i>	46a-55
Sec. 3	<i>from passage</i>	46a-83(d)
Sec. 4	<i>from passage</i>	46a-89

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:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Human Rights & Opportunities, Com.	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill extends the authority to go to court to seek punitive damages and a civil remedy to cases involving discrimination. This could result in a minimal revenue gain. The bill makes several other changes to the laws involving housing discrimination complaints filed with the Commission on Human Rights and Opportunities, none of which have a fiscal impact.

OLR Bill Analysis

sSB 1073

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**SUMMARY:**

The bill makes several changes in 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 parties 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.

The bill also requires that one of the attorneys appointed by CHRO must serve as supervisory attorney and specifies that each CHRO legal counsel be licensed to practice in Connecticut. 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

HOUSING DISCRIMINATION COMPLAINTS-TRANSFERS TO COURT AT COMPLAINT'S OR RESPONDENT'S REQUEST

By law, if a CHRO investigator finds there is reasonable cause to believe 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 the reasonable cause finding. The bill requires the CHRO investigator to complete the investigation of a remanded case within 90 days after receiving it.

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 on its own initiative 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.

The bill also extends the authority to go to court to seek punitive damages and a civil remedy to cases involving discrimination in places of public accommodation, resort, or amusement. It specifies that injunctions may be temporary or permanent regarding the sale or rental of a dwelling or commercial property.

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 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 40 Nay 0

