



General Assembly

Substitute Bill No. 1073

January Session, 2005

* _____SB01073JUD__041505_____*

**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2 repealed and the following is substituted in lieu thereof (*Effective from*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 Section 46a-55 of the general statutes is repealed and the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19 repealed and the following is substituted in lieu thereof (*Effective from*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-81e, [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.]

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| 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.*