

The Commission on Human Rights and Opportunities Opposes House Bill 5049, Sec. 10, **AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR GENERAL GOVERNMENT.**

The Commission on Human Rights and Opportunities ("Commission") is opposed to any change that would place our agency under the Office of Governmental Accountability. The structure and the services provided by the Commission require independence from an umbrella agency like Office of Government Accountability ("OGA") or any other state agency.

The work of the Commission includes not only enforcement of the housing, public accommodation, employment and credit practice statutes but also affirmative action and contract compliance. The multiple parts of the agency would not fit under the OGA umbrella.

Unlike other OGA agencies, the Commission's budget relies on contracts from the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Dept. of Housing and Urban Development (HUD). Transitioning the CHRO to under the umbrella of OGA will jeopardize over **\$1.7 million** in federal funding paid directly to the General Fund. This is 27% of the CHRO's operating budget.

Attached to this testimony is a letter from Kevin J. Berry, District Director of the EEOC for the New York District Office. In it he writes, "Any reduction in the CHRO's funding from its funding sources, restrictions place on the use of its funds or changes in the FEPA's law or regulations, that impact on its ability to perform under or meet its contracted obligations would adversely impact the EEOC contract funding." The letter of Joseph A. Pelletier, Director of HUD's Fair Housing Assistance Program, also expresses concern over HB 5049. The Commission and State of Connecticut cannot afford to jeopardize \$1.7 million dollars of funding during these tough economic times.

The Commission is agreeable to entering into a Memorandum of Understanding with OGA for Administrative Purposes Only ("APO"), the but is opposed to being placed under the OGA as an umbrella agency. The Commission has previously been under the Dept. of Administrative Services and the Dept. of Labor for administrative purposes only.

Rather than streamlining government, HB 5049 adds a second layer of unnecessary bureaucratic oversight. At a time of shrinking state government, OGA is being asked to absorb an agency that would be by far the largest consumer of personnel, payroll, administrative and business office functions. In FY 15, the Commission has 79 employees. Including every agency within it, OGA only has 89. The Commission's incorporation into OGA will overtax OGA's ability to provide those crucial services, hurting both OGA and the Commission.

HB 5049 also has an adverse fiscal impact on the state budget due to the need for an entirely new agency to master sophisticated federal funding formulae and comply with

numerous record keeping and reporting requirements. Without strict compliance with these requirements, federal funding will be imperiled or even lost.

There is a reason why the General Assembly, over 72 years ago, chose to make the Commission a stand-alone, independent agency. The drafters of that legislation understood that for the Commission to fulfill its intended role as watchdog of the civil rights of us all, the Commission needed the ability to make decisions without the burdens of excessive entanglement. There is a reason why nearly every other state that has an agency like the Commission has created it agency to be a stand-alone, independent agency.

The Commission opposes being placed in OGA and therefore opposes HB 5049.



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
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February 16, 2016

His Excellency, Governor Dannel P. Malloy  
State Capitol  
201 Capitol Avenue  
Hartford, CT 06106

Re: EEOC Contract Funds and Maintenance of Effort

Dear Governor Malloy:

This is in reference to a recent inquiry regarding whether Equal Employment Opportunity Commission (EEOC) Contract Funds provided to the Connecticut Commission on Human Rights and Opportunities (CHRO) would be reduced, or even eliminated, if the funds and/or staffing received from the State of Connecticut are reduced due to a proposed merger with the Office of Government Accountability.

The applicable contracting principles for state and local fair employment practices agencies (FEPA) are clear that as a condition of contracting with the EEOC, the CHRO can not have a reduction in their state resources in anticipation of or as a result of EEOC contract funds. Any reduction in the CHRO's funding from its funding source, restrictions placed on the use of its funds or changes in the FEPA's law or regulations, that impact on its ability to perform under or meet its contracted obligations would adversely impact the EEOC contract funding.

If you have any questions, please contact me at (212) 336-3742.

Sincerely,

Kevin J. Berry  
District Director

cc. Tanya Hughes  
Executive Director  
Connecticut Commission on Human Rights and Opportunities  
25 Sigourney Street, 7<sup>th</sup> Floor  
Hartford, CT 06106



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-2000

OFFICE OF FAIR HOUSING  
AND EQUAL OPPORTUNITY

**FEB 22 2016**

Ms. Tanya Hughes  
Executive Director  
Connecticut Commission on Human Rights and Opportunities  
25 Sigourney Street, 7<sup>th</sup> Floor  
Hartford, CT 06106

**RE:** Proposed administrative changes affecting the Connecticut Commission on Human Rights and Opportunities

Dear Ms. Hughes:

This responds to your inquiry whether various proposed legislation before the Connecticut General Assembly would endanger the status of Connecticut's fair housing law as substantially equivalent to the federal Fair Housing Act and the continued participation of CCHRO in HUD's Fair Housing Assistance Program (FHAP).

**House Bill 5342**

House Bill 5342 proposes to revise two sections of Title 46a, Chapter 814c, of the Connecticut General Statutes, specifically, sections 46a-82(f) and 46a-86(c).

Section 46a-82f

Section 46a-82 governs the filing of complaints before the Commission. The proposed revision to this section would add the following sentence to the end of subsection (f):

A complainant, other than the commissioner, shall not be permitted to file more than one complaint for each discriminatory housing practice or set of related discriminatory housing practices under sections 46a-64c and 46a-81e.

The sections referenced in the proposed revision – 46a-64c and 46a-81e – are the sections of Chapter 814c that address unlawful discrimination in housing. The intent of the addition is unclear. While it does not appear to be problematic on its face, an analysis of the possible effect of this revision on the status of Connecticut's fair housing law is not possible absent additional information with respect to the drafters' intent.

Section 46a-86c

Section 46a-86 governs, among other things, the relief available to a prevailing complainant in an action before the Commission. The proposed revision to this section would add the

following sentence to the end of subsection (c):

Damages for discriminatory housing practices under sections 46a-64c and 46a-81e shall not be punitive in nature, and therefore shall not exceed actual economic loss suffered by the complainant.

This provision raises a significant concern with respect to the status of Connecticut's fair housing law as substantially equivalent to the federal Fair Housing Act and to CCHRO's continued participation in the FHAP. There is a clear line of authority going back to at least as early as 1974 establishing that appropriate relief for victims of housing discrimination is not limited solely to economic damages; but rather, that actual damages may include compensation for embarrassment, humiliation, and emotional distress. See, Curtis v. Loether, 415 U.S. 189 (1974). Compensatory damages are also available for loss of civil rights and lost housing opportunity. See, e.g., Bradley v. John M. Brabham Agency, 463 F. Supp. 27 (D.S.C. 1978).

Additionally, HUD's regulations governing substantial equivalence at 24 C.F.R. part 115 require that the provisions of the state or local law must afford administrative and judicial protection and enforcement of the rights embodied in the law, and that the agency must have the authority to grant actual damages in an administrative proceeding. See, 24 C.F.R. § 115.204(b)(1)(iii). The term "actual damages" is synonymous with "compensatory damages," which include emotional distress and other categories of damages intended to make the victim whole.

### **House Bill 5049**

You also inquired about a proposal (HB 5049) that would place the Connecticut Commission on Human Rights and Opportunities (CCHRO) under the administrative oversight of the Office of Governmental Accountability. While an administrative reorganization generally does not, in and of itself, create an issue with respect to substantial equivalence, you have indicated that there are proposals related to this administrative reorganization that may result in decreased funding to CCHRO. Specifically, you have indicated that the proposed budget reduction and realignment may result in a 50% staff reduction in the housing unit. Such actions do have the potential to create concerns with regard to CCHRO's continued participation in the FHAP.

As a threshold matter, Section 10 ("Maintenance of Effort") of the *Contributions Agreement* between HUD and CCHRO mandates that "the Recipient shall not unilaterally reduce the level of financial resources currently committed to fair housing." Section 10 does acknowledge that "[b]udget and staff reductions occasioned by legislative action outside the control of the Recipient will not, alone, result in a determination of ineligibility," but goes on to state that "HUD will take such actions into consideration in assessing the ongoing viability of a Recipient's fair housing program."<sup>1</sup> Additionally, it is conceivable

<sup>1</sup> Section 10 also mandates that FHAP agency spend at least 20 percent of its total annual budget on fair housing activities if it enforces antidiscrimination law(s) other than a fair housing law, as does CCHRO. The term "total annual budget" means the entire budget assigned by the jurisdiction to the agency for enforcing and administering antidiscrimination laws, but does not include FHAP funds. The precise details of funding reductions could conceivably implicate CCHRO's ability to comply with this requirement.

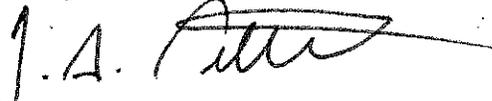
that the proposed funding and/or staff reductions you describe could ultimately have an adverse impact on CCHRO's ability to perform timely and thorough investigation of fair housing complaints, and by extension to meet its obligations under the FHAP program.

Conclusion

Both HB 5342 and HB 5049 raise concerns. While those raised by HB 5049 depend on the extent of the fiscal ramifications of the proposed reorganization and ultimately on the concomitant effect on CCHRO's performance, the proposed revision to Section 46a-86c in HB 5342 raises a more significant and immediate concern with respect to the status of Connecticut's fair housing law as substantially equivalent to the federal Fair Housing Act.

If you have any questions, please contact me at (202) 402-2126 or at Joseph.A.Pelletier@hud.gov.

Sincerely,



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Joseph A. Pelletier, Esq.

Director, Fair Housing Assistance Program

cc: Susan Forward, FHEO Region I Director