

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2536 Session of 2014

INTRODUCED BY COHEN, BISHOP, V. BROWN, BROWNLIE, DAVIS, FREEMAN,
KINSEY, McNEILL, O'BRIEN, SCHLOSSBERG AND THOMAS,
OCTOBER 6, 2014

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 6, 2014

AN ACT

1 Amending the act of October 27, 1955 (P.L.744, No.222),
2 entitled, as amended, "An act prohibiting certain practices
3 of discrimination because of race, color, religious creed,
4 ancestry, age or national origin by employers, employment
5 agencies, labor organizations and others as herein defined;
6 creating the Pennsylvania Human Relations Commission in the
7 Governor's Office; defining its functions, powers and duties;
8 providing for procedure and enforcement; providing for
9 formulation of an educational program to prevent prejudice;
10 providing for judicial review and enforcement and imposing
11 penalties," further providing for procedure and for
12 construction and exclusiveness of remedy.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Sections 9(b) and 12(c) of the act of October 27,
16 1955 (P.L.744, No.222), known as the Pennsylvania Human
17 Relations Act, amended December 20, 1991 (P.L.414, No.51), are
18 amended to read:

19 Section 9. Procedure.--* * *

20 (b) The following apply:

21 (1) After the filing of any complaint, [or whenever] the
22 Commission shall notify the complainant on a form promulgated by

1 the Commission and approved by the Commissioner of:

2 (i) the rights of the complainant under this act, including
3 the right to file a complaint in the courts of common pleas to
4 be heard before a jury;

5 (ii) the jurisdictional limitations of the Commission; and

6 (iii) any other provisions of this act, without
7 interpretation, that may apply to the complaint.

8 (2) The Commission, upon its own initiative, or Attorney
9 General, in like manner, may make, sign and file the complaint.

10 (3) A complainant may initiate suit in a court of common
11 pleas under this act without first filing a complaint with the
12 Commission. Upon the application of a party, a jury trial shall
13 be directed to try the validity of a claim under this act
14 specified in the suit. A remedy available in common law tort
15 actions shall be available to prevailing plaintiffs. The remedy
16 shall be in addition to a remedy provided by this act or any
17 other statute. Prosecution of the suit in a court of common
18 pleas under this act shall bar the filing of a complaint with
19 the Commission during the pendency of the suit. An action under
20 this subsection shall be filed within two years after the
21 alleged discriminatory action.

22 (4) A party to an action based upon a violation of this act
23 shall mail a copy of the initial pleadings or claims, amended
24 pleadings or claims, counterclaims, briefs and legal memoranda
25 to the Commission at the same time as filing the documents with
26 the court. Upon application to the court where the matter is
27 pending, the Commission shall be permitted to intervene in the
28 action.

29 (5) Whenever there is reason to believe that an unlawful
30 discriminatory practice has been committed, the Commission shall

1 make a prompt investigation in connection therewith.

2 [(2)] (6) The Commission shall send a copy of the complaint
3 to the named respondent within thirty days from the date of
4 docketing the complaint, unless otherwise required by the Fair
5 Housing Act.

6 [(3)] (7) A respondent shall file a written, verified answer
7 to the complaint within thirty days of service of the complaint,
8 unless otherwise required by the Fair Housing Act. The
9 Commission, upon request of the respondent, may grant an
10 extension of not more than thirty additional days, unless
11 otherwise required by the Fair Housing Act.

12 [(4)] (8) After service of the complaint, the Commission
13 shall encourage voluntary and informed predetermination
14 settlements between parties.

15 * * *

16 Section 12. Construction and Exclusiveness of Remedy.--* * *

17 (c) (1) In cases involving a claim of discrimination, if a
18 complainant invokes the procedures set forth in this act, that
19 individual's right of action in the courts of the Commonwealth
20 shall not be foreclosed. [If] Except as provided under section
21 9(b)(1), (2), (3) and (4), if within one (1) year after the
22 filing of a complaint with the Commission, the Commission
23 dismisses the complaint or has not entered into a conciliation
24 agreement to which the complainant is a party, the Commission
25 must so notify the complainant. On receipt of such a notice the
26 complainant shall be able to bring an action in the courts of
27 common pleas of the Commonwealth based on the right to freedom
28 from discrimination granted by this act.

29 (2) An action under this subsection shall be filed within
30 two years after the date of notice from the Commission closing

1 the complaint. Any complaint so filed shall be served on the
2 Commission at the time the complaint is filed in court. The
3 Commission shall notify the complainant of this requirement. A
4 complainant whose complaint of employment discrimination filed
5 with the Commission under this act is also filed with the Equal
6 Employment Opportunity Commission may, upon receipt of the
7 notice of a right to sue from the Equal Employment Opportunity
8 Commission, file a complaint in a court of common pleas under
9 the provisions of this act within the time limit to file the
10 suit under Federal law.

11 (3) If the court finds that the respondent has engaged in or
12 is engaging in an unlawful discriminatory practice charged in
13 the complaint, the court shall enjoin the respondent from
14 engaging in such unlawful discriminatory practice and order
15 affirmative action which may include, but is not limited to,
16 reinstatement or hiring of employes, granting of back pay, or
17 any other legal or equitable relief as the court deems
18 appropriate. Back pay liability shall not accrue from a date
19 more than three years prior to the filing of a complaint
20 charging violations of this act.

21 (4) The court shall serve upon the Commission any final
22 order issued in any action brought under this subsection.

23 * * *

24 Section 2. This act shall take effect in 60 days.