

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 865

Session of  
1981

INTRODUCED BY WILT, GRUITZA AND MILLER, MARCH 16, 1981

AS REPORTED FROM COMMITTEE ON LABOR RELATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, SEPTEMBER 14, 1981

## 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 Department of Labor and Industry; defining its functions,  
8 powers and duties; providing for procedure and enforcement;  
9 providing for formulation of an educational program to  
10 prevent prejudice; providing for judicial review and  
11 enforcement and imposing penalties," further providing for  
12 the payment of reasonable expenses, hearing examiners and  
13 making editorial changes.

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

16 Section 1. Section 4, act of October 27, 1955 (P.L.744,  
17 No.222), known as the "Pennsylvania Human Relations Act," is  
18 amended by adding ~~a clause~~ CLAUSES to read: <—

19 Section 4. Definitions.--As used in this act unless a  
20 different meaning clearly appears from the context:

21 \* \* \*

22 (q) The term "permanent hearing examiner" shall mean a full-

1 time employe who is an attorney or other person knowledgeable in  
2 Human Relations matters designated by the Commission to conduct  
3 hearings required to be held under this act.

4 (R) THE TERM "DESIGNATED AGENT OF THE COMPLAINANT" SHALL <—  
5 MEAN AN INDIVIDUAL WHO IS A PARA-LEGAL UNDER THE SUPERVISION OF  
6 A PRACTICING ATTORNEY.

7 Section 2. Subsection (c) of section 7 of the act, amended  
8 March 28, 1956 (P.L.1354, No.428), is amended to read:

9 Section 7. Powers and Duties of the Commission.--The  
10 Commission shall have the following powers and duties:

11 \* \* \*

12 (c) To appoint such attorneys [with the approval of the  
13 Attorney General,] and permanent hearing examiners and other  
14 employes and agents as it may deem necessary, fix their  
15 compensation within the limitations provided by law, and  
16 prescribe their duties.

17 \* \* \*

18 Section 3. Section 9 of the act, amended February 28, 1961  
19 (P.L.47, No.19), December 27, 1965 (P.L.1225, No.498) and  
20 October 11, 1967 (P.L.425, No.190), is amended to read:

21 Section 9. Procedure.--(a) Any individual claiming to be  
22 aggrieved by an alleged unlawful discriminatory practice may  
23 make, sign and file with the Commission a verified complaint, in  
24 writing, which shall state the name and address of the person,  
25 employer, labor organization or employment agency alleged to  
26 have committed the unlawful discriminatory practice complained  
27 of, and which shall set forth the particulars thereof and  
28 contain such other information as may be required by the  
29 Commission. The Commission upon its own initiative or the  
30 Attorney General may, in like manner, make, sign and file such

1 complaint. Any employer whose employees, or some of them, hinder  
2 or threaten to hinder compliance with the provisions of this act  
3 may file with the Commission a verified complaint, asking for  
4 assistance by conciliation or other remedial action and, during  
5 such period of conciliation or other remedial action, no  
6 hearings, orders or other actions shall be taken by the  
7 Commission against such employer.

8 (b) After the filing of any complaint, or whenever there is  
9 reason to believe that an unlawful discriminatory practice has  
10 been committed, the Commission shall make a prompt investigation  
11 in connection therewith.

12 (c) If it shall be determined after such investigation that  
13 no probable cause exists for crediting the allegations of the  
14 complaint, the Commission shall, within ten days from such  
15 determination, cause to be issued and served upon the  
16 complainant written notice of such determination, and the said  
17 complainant or his attorney may, within ten days after such  
18 service, file with the Commission a written request for a  
19 preliminary hearing before the Commission to determine probable  
20 cause for crediting the allegations of the complaint. If it  
21 shall be determined after such investigation that probable cause  
22 exists for crediting the allegations of the complaint, the  
23 Commission shall immediately endeavor to eliminate the unlawful  
24 discriminatory practice complained of by conference,  
25 conciliation and persuasion. The members of the Commission and  
26 its staff shall not disclose what has transpired in the course  
27 of such endeavors: Provided, That the Commission may publish the  
28 facts in the case of any complaint which has been dismissed, and  
29 the terms of conciliation when the complaint has been adjusted,  
30 without disclosing the identity of the parties involved.

1        (d) In case of failure so to eliminate such practice or in  
2 advance thereof, if in the judgment of the Commission  
3 circumstances so warrant, the Commission shall cause to be  
4 issued and served a written notice, together with a copy of such  
5 complaint as the same may have been amended, requiring the  
6 person, employer, labor organization or employment agency named  
7 in such complaint, hereinafter referred to as respondent, to  
8 answer the charges of such complaint at a hearing before the  
9 Commission at a time and place to be specified in such notice.  
10 The place of any such hearing shall be in the county in which  
11 the alleged offense was committed.

12        (e) The case in support of the complaint shall be presented  
13 before the Commission or before a permanent hearing examiner  
14 designated by the Commission for the purpose of hearing said  
15 complaint by one of its attorneys or agents, by the  
16 complainant's attorney or by a designated agent of the  
17 complainant. The respondent may file a written, verified answer  
18 to the complaint and appear at such hearing in person or  
19 otherwise, with or without counsel, and submit testimony. The  
20 complainant may likewise appear at such hearing in person or  
21 otherwise, with or without counsel, and submit testimony. The  
22 Commission or the complainant shall have the power reasonably  
23 and fairly to amend any complaint, and the respondent shall have  
24 like power to amend his answer. The Commission shall not be  
25 bound by the strict rules of evidence prevailing in courts of  
26 law or equity. The testimony taken at the hearing shall be under  
27 oath and be transcribed.

28        (f) If, upon all the evidence at the hearing, the Commission  
29 shall find that a respondent has engaged in or is engaging in  
30 any unlawful discriminatory practice as defined in this act, the

1 Commission shall state its findings of fact, and shall issue and  
2 cause to be served on such respondent an order requiring such  
3 respondent to cease and desist from such unlawful discriminatory  
4 practice and to take such affirmative action including but not  
5 limited to hiring, reinstatement or upgrading of employes, with  
6 or without back pay, admission or restoration to membership in  
7 any respondent labor organization, or selling or leasing  
8 specified commercial housing upon such equal terms and  
9 conditions and with such equal facilities, services and  
10 privileges or lending money, whether or not secured by mortgage  
11 or otherwise for the acquisition, construction, rehabilitation,  
12 repair or maintenance of commercial housing, upon such equal  
13 terms and conditions to any person discriminated against or all  
14 persons as, in the judgment of the Commission, will effectuate  
15 the purposes of this act, and including a requirement for report  
16 of the manner of compliance. When the respondent is a licensee  
17 of the Commonwealth, the Commission shall inform the appropriate  
18 State licensing authority of the order with the request that the  
19 licensing authority take such action as it deems appropriate  
20 against such licensee. An appeal from the Commission's order  
21 shall act as a supersedeas and stay such action by the State  
22 licensing authority until a final decision on said appeal. If,  
23 upon all the evidence, the Commission shall find that a  
24 respondent has not engaged in any such unlawful discriminatory  
25 practice, the Commission shall state its findings of fact, and  
26 shall issue and cause to be served on the complainant an order  
27 dismissing the said complaint as to such respondent.

28     (g) The Commission shall establish rules or practice to  
29 govern, expedite and effectuate the foregoing procedure and its  
30 own actions thereunder. Three or more members of the Commission

1 or a permanent hearing examiner designated by the Commission  
2 shall constitute the Commission for any hearing required to be  
3 held by the Commission under this act. The recommended findings,  
4 conclusions and order made by said members or permanent hearing  
5 examiner shall be reviewed and approved by the Commission before  
6 such order may be served upon the parties to the complaint. Any  
7 complaint filed pursuant to this section must be so filed within  
8 ninety days after the alleged act of discrimination. Any  
9 complaint may be withdrawn at any time by the party filing the  
10 complaint.

11       Section 4. This act shall take effect in 60 days.