

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 307 Session of 2015

INTRODUCED BY COHEN, BISHOP, V. BROWN, BROWNLEE, FREEMAN,  
McNEILL, O'BRIEN, SCHLOSSBERG AND McCARTER, FEBRUARY 3, 2015

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 3, 2015

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  
23 the Commission and approved by the Commissioner of:

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

4 (ii) the jurisdictional limitations of the Commission; and  
5 (iii) any other provisions of this act, without  
6 interpretation, that may apply to the complaint.

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

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

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

28 (5) Whenever there is reason to believe that an unlawful  
29 discriminatory practice has been committed, the Commission shall  
30 make a prompt investigation in connection therewith.

1        [(2)] (6) The Commission shall send a copy of the complaint  
2 to the named respondent within thirty days from the date of  
3 docketing the complaint, unless otherwise required by the Fair  
4 Housing Act.

5        [(3)] (7) A respondent shall file a written, verified answer  
6 to the complaint within thirty days of service of the complaint,  
7 unless otherwise required by the Fair Housing Act. The  
8 Commission, upon request of the respondent, may grant an  
9 extension of not more than thirty additional days, unless  
10 otherwise required by the Fair Housing Act.

11       [(4)] (8) After service of the complaint, the Commission  
12 shall encourage voluntary and informed predetermination  
13 settlements between parties.

14       \* \* \*

15       Section 12. Construction and Exclusiveness of Remedy.--\* \* \*

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

28       (2) An action under this subsection shall be filed within  
29 two years after the date of notice from the Commission closing  
30 the complaint. Any complaint so filed shall be served on the

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

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

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

22 \* \* \*

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