

2 **HB 2598** - S COMM AMD

3 By Committee on Commerce & Labor

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 49.60.030 and 1984 c 32 s 2 are each amended to read
8 as follows:

9 (1) The right to be free from discrimination because of race,
10 creed, color, national origin, sex, or the presence of any sensory,
11 mental, or physical handicap is recognized as and declared to be a
12 civil right. This right shall include, but not be limited to:

13 (a) The right to obtain and hold employment without discrimination;

14 (b) The right to the full enjoyment of any of the accommodations,
15 advantages, facilities, or privileges of any place of public resort,
16 accommodation, assemblage, or amusement;

17 (c) The right to engage in real estate transactions without
18 discrimination, including discrimination against families with
19 children;

20 (d) The right to engage in credit transactions without
21 discrimination;

22 (e) The right to engage in insurance transactions or transactions
23 with health maintenance organizations without discrimination:
24 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
25 48.44.220, or 48.46.370 does not constitute an unfair practice for the
26 purposes of this subparagraph; and

27 (f) The right to engage in commerce free from any discriminatory
28 boycotts or blacklists. Discriminatory boycotts or blacklists for

1 purposes of this section shall be defined as the formation or execution
2 of any express or implied agreement, understanding, policy or
3 contractual arrangement for economic benefit between any persons which
4 is not specifically authorized by the laws of the United States and
5 which is required or imposed, either directly or indirectly, overtly or
6 covertly, by a foreign government or foreign person in order to
7 restrict, condition, prohibit, or interfere with or in order to exclude
8 any person or persons from any business relationship on the basis of
9 race, color, creed, religion, sex, national origin or lawful business
10 relationship: PROVIDED HOWEVER, That nothing herein contained shall
11 prohibit the use of boycotts as authorized by law pertaining to labor
12 disputes and unfair labor practices.

13 (2) Any person deeming himself or herself injured by any act in
14 violation of this chapter shall have a civil action in a court of
15 competent jurisdiction to enjoin further violations, to seek
16 appropriate temporary or preliminary relief, to recover the actual
17 damages sustained by ~~((him, or both))~~ the person, and ordering such
18 affirmative actions as may be necessary, together with the cost of suit
19 including a reasonable attorney's fee ~~((s))~~ or any other appropriate
20 remedy authorized by this chapter or the United States Civil Rights Act
21 of 1964 as amended, or the federal fair housing amendments act of 1988
22 (42 U.S.C. Sec. 3601 et seq.); and

23 (3) Notwithstanding any other provisions of this chapter, any act
24 prohibited by this chapter related to sex discrimination or
25 discriminatory boycotts or blacklists which is committed in the course
26 of trade or commerce in the state of Washington as defined in the
27 Consumer Protection Act, chapter 19.86 RCW, shall be deemed an unfair
28 practice within the meaning of RCW 19.86.020 and 19.86.030 and subject
29 to all the provisions of chapter 19.86 RCW as now or hereafter
30 amended."

1 "NEW SECTION. **Sec. 2.** A new section is added to chapter 49.60 RCW
2 to read as follows:

3 (1) The superior courts of the state of Washington shall have
4 jurisdiction upon petition of the commission, through the attorney
5 general, to seek appropriate temporary or preliminary relief to enjoin
6 any unfair practice in violation of RCW 49.60.222 through 49.60.225,
7 from which prompt judicial action is necessary to carry out the
8 purposes of this chapter.

9 (2) The commencement of a civil action under this section does not
10 preclude the initiation or continuation of administrative proceedings
11 under this chapter."

12 **"Sec. 3.** RCW 49.60.040 and 1985 c 203 s 2 and 1985 c 185 s 2 are
13 each reenacted and amended to read as follows:

14 As used in this chapter:

15 (1) "Person" includes one or more individuals, partnerships,
16 associations, organizations, corporations, cooperatives, legal
17 representatives, trustees and receivers, or any group of persons; it
18 includes any owner, lessee, proprietor, manager, agent, or employee,
19 whether one or more natural persons; and further includes any political
20 or civil subdivisions of the state and any agency or instrumentality of
21 the state or of any political or civil subdivision thereof;

22 (2) "Commission" means the Washington state human rights
23 commission;

24 (3) "Employer" includes any person acting in the interest of an
25 employer, directly or indirectly, who employs eight or more persons,
26 and does not include any religious or sectarian organization not
27 organized for private profit;

1 (4) "Employee" does not include any individual employed by his or
2 her parents, spouse, or child, or in the domestic service of any
3 person;

4 (5) "Labor organization" includes any organization which exists for
5 the purpose, in whole or in part, of dealing with employers concerning
6 grievances or terms or conditions of employment, or for other mutual
7 aid or protection in connection with employment;

8 (6) "Employment agency" includes any person undertaking with or
9 without compensation to recruit, procure, refer, or place employees
10 for an employer;

11 (7) "National origin" includes "ancestry";

12 (8) "Full enjoyment of" includes the right to purchase any service,
13 commodity, or article of personal property offered or sold on, or by,
14 any establishment to the public, and the admission of any person to
15 accommodations, advantages, facilities, or privileges of any place of
16 public resort, accommodation, assemblage, or amusement, without acts
17 directly or indirectly causing persons of any particular race, creed,
18 color, sex, or with any sensory, mental, or physical handicap, or a
19 blind or deaf person using a trained dog guide, to be treated as not
20 welcome, accepted, desired, or solicited;

21 (9) "Any place of public resort, accommodation, assemblage, or
22 amusement" includes, but is not limited to, any place, licensed or
23 unlicensed, kept for gain, hire, or reward, or where charges are made
24 for admission, service, occupancy, or use of any property or
25 facilities, whether conducted for the entertainment, housing, or
26 lodging of transient guests, or for the benefit, use, or accommodation
27 of those seeking health, recreation, or rest, or for the burial or
28 other disposition of human remains, or for the sale of goods,
29 merchandise, services, or personal property, or for the rendering of
30 personal services, or for public conveyance or transportation on land,

1 water, or in the air, including the stations and terminals thereof and
2 the garaging of vehicles, or where food or beverages of any kind are
3 sold for consumption on the premises, or where public amusement,
4 entertainment, sports, or recreation of any kind is offered with or
5 without charge, or where medical service or care is made available, or
6 where the public gathers, congregates, or assembles for amusement,
7 recreation, or public purposes, or public halls, public elevators, and
8 public washrooms of buildings and structures occupied by two or more
9 tenants, or by the owner and one or more tenants, or any public library
10 or educational institution, or schools of special instruction, or
11 nursery schools, or day care centers or children's camps: PROVIDED,
12 That nothing contained in this definition shall be construed to include
13 or apply to any institute, bona fide club, or place of accommodation,
14 which is by its nature distinctly private, including fraternal
15 organizations, though where public use is permitted that use shall be
16 covered by this chapter; nor shall anything contained in this
17 definition apply to any educational facility, columbarium, crematory,
18 mausoleum, or cemetery operated or maintained by a bona fide religious
19 or sectarian institution;

20 (10) "Real property" includes buildings, structures, dwellings,
21 real estate, lands, tenements, leaseholds, interests in real estate
22 cooperatives, condominiums, and hereditaments, corporeal and
23 incorporeal, or any interest therein;

24 (11) "Real estate transaction" includes the sale, exchange,
25 purchase, rental, or lease of real property or transacting or applying
26 for a real estate loan;

27 (12) "Dwelling" means any building, structure, or portion thereof
28 that is occupied as, or designed or intended for occupancy as, a
29 residence by one or more families, and any vacant land that is offered

1 for sale or lease for the construction or location thereon of any such
2 building, structure, or portion thereof;

3 (13) "Sex" means gender((-));

4 (14) "Aggrieved person" means any person who: (a) Claims to have
5 been injured by an unfair practice in a real estate transaction; or (b)
6 believes that he or she will be injured by an unfair practice in a real
7 estate transaction that is about to occur;

8 (15) "Credit transaction" includes any open or closed end credit
9 transaction, whether in the nature of a loan, retail installment
10 transaction, credit card issue or charge, or otherwise, and whether for
11 personal or for business purposes, in which a service, finance, or
12 interest charge is imposed, or which provides for repayment in
13 scheduled payments, when such credit is extended in the regular course
14 of any trade or commerce, including but not limited to transactions by
15 banks, savings and loan associations or other financial lending
16 institutions of whatever nature, stock brokers, or by a merchant or
17 mercantile establishment which as part of its ordinary business permits
18 or provides that payment for purchases of property or service therefrom
19 may be deferred;

20 (16) "Families with children" status ensues when one or more
21 individuals who have not attained the age of eighteen years is
22 domiciled with a parent or another person having custody or
23 guardianship of such individual or individuals. Families with children
24 status also applies to any person who is pregnant or is in the process
25 of securing legal custody or guardianship of any individual who has not
26 attained the age of eighteen years."

27 "Sec. 4. RCW 49.60.120 and 1985 c 185 s 10 are each amended to
28 read as follows:

29 The commission shall have the functions, powers and duties:

1 (1) To appoint an executive secretary and chief examiner, and such
2 investigators, examiners, clerks, and other employees and agents as it
3 may deem necessary, fix their compensation within the limitations
4 provided by law, and prescribe their duties.

5 (2) To obtain upon request and utilize the services of all
6 governmental departments and agencies.

7 (3) To adopt, promulgate, amend, and rescind suitable rules and
8 regulations to carry out the provisions of this chapter, and the
9 policies and practices of the commission in connection therewith.

10 (4) To receive, impartially investigate, and pass upon complaints
11 alleging unfair practices as defined in this chapter.

12 (5) To issue such publications and such results of investigations
13 and research as in its judgment will tend to promote good will and
14 minimize or eliminate discrimination because of sex, race, creed,
15 color, national origin, marital status, age, or the presence of any
16 sensory, mental, or physical handicap.

17 (6) To make such technical studies as are appropriate to effectuate
18 the purposes and policies of this chapter and to publish and distribute
19 the reports of such studies.

20 (7) To cooperate and act jointly or by division of labor with the
21 United States or other states, and with political subdivisions of the
22 state of Washington and their respective human rights agencies to carry
23 out the purposes of this chapter. However, the powers which may be
24 exercised by the commission under this subsection permit investigations
25 and complaint dispositions only if the investigations are designed to
26 reveal, or the complaint deals only with, allegations which, if proven,
27 would constitute unfair practices under this chapter. The commission
28 may perform such services for these agencies and be reimbursed
29 therefor.

1 (8) To foster good relations between minority and majority
2 population groups of the state through seminars, conferences,
3 educational programs, and other intergroup relations activities."

4 "Sec. 5. RCW 49.60.222 and 1989 c 61 s 1 are each amended to read
5 as follows:

6 (1) It is an unfair practice for any person, whether acting for
7 himself, herself, or another, because of sex, marital status, race,
8 creed, color, national origin, families with children status, the
9 presence of any sensory, mental, or physical handicap, or the use of a
10 trained guide dog or service dog by a blind, deaf, or physically
11 disabled person:

12 ((+1)) (a) To refuse to engage in a real estate transaction with
13 a person;

14 ((+2)) (b) To discriminate against a person in the terms,
15 conditions, or privileges of a real estate transaction or in the
16 furnishing of facilities or services in connection therewith;

17 ((+3)) (c) To refuse to receive or to fail to transmit a bona fide
18 offer to engage in a real estate transaction from a person;

19 ((+4)) (d) To refuse to negotiate for a real estate transaction
20 with a person;

21 ((+5)) (e) To represent to a person that real property is not
22 available for inspection, sale, rental, or lease when in fact it is so
23 available, or to fail to bring a property listing to his or her
24 attention, or to refuse to permit ((him)) the person to inspect real
25 property;

26 ((+6)) (f) To print, circulate, post, or mail, or cause to be so
27 published a statement, advertisement, or sign, or to use a form of
28 application for a real estate transaction, or to make a record or
29 inquiry in connection with a prospective real estate transaction, which

1 indicates, directly or indirectly, an intent to make a limitation,
2 specification, or discrimination with respect thereto;

3 ~~((7))~~ (g) To offer, solicit, accept, use, or retain a listing of
4 real property with the understanding that a person may be discriminated
5 against in a real estate transaction or in the furnishing of facilities
6 or services in connection therewith;

7 ~~((8))~~ (h) To expel a person from occupancy of real property;

8 ~~((9))~~ (i) To discriminate in the course of negotiating,
9 executing, or financing a real estate transaction whether by mortgage,
10 deed of trust, contract, or other instrument imposing a lien or other
11 security in real property, or in negotiating or executing any item or
12 service related thereto including issuance of title insurance, mortgage
13 insurance, loan guarantee, or other aspect of the transaction. Nothing
14 in this section shall limit the effect of RCW 49.60.176 relating to
15 unfair practices in credit transactions; or

16 ~~((10))~~ (j) To attempt to do any of the unfair practices defined
17 in this section.

18 (2) For the purposes of this chapter discrimination based on the
19 presence of any sensory, mental, or physical handicap or the use of a
20 trained guide dog or service dog by a blind, deaf, or physically
21 disabled person includes:

22 (a) To refuse to make reasonable accommodation in rules, policies,
23 practices, or services when such accommodations may be necessary to
24 afford a person with the presence of any sensory, mental, or physical
25 handicap and/or the use of a trained guide dog or service dog by a
26 blind, deaf, or physically disabled person equal opportunity to use and
27 enjoy a dwelling; or

28 (b) To fail to design and construct dwellings in conformance with
29 the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et
30 seq.) and all other applicable laws or regulations pertaining to access

1 by persons with any sensory, mental, or physical handicap or use of a
2 trained guide dog or service dog. Whenever the requirements of
3 applicable laws or regulations differ, the requirements which require
4 greater accessibility for persons with any sensory, mental, or physical
5 handicap shall govern.

6 For purposes of this subsection (2), "dwelling" means any building,
7 structure, or portion thereof that is occupied as, or designed or
8 intended for occupancy as, a residence by four or more families, and
9 any vacant land that is offered for sale or lease for the construction
10 or location thereon of any such building, structure, or portion
11 thereof.

12 (3) Notwithstanding any other provision of ((law)) this chapter, it
13 shall not be an unfair practice or a denial of civil rights for any
14 public or private educational institution to separate the sexes or give
15 preference to or limit use of dormitories, residence halls, or other
16 student housing to persons of one sex or to make distinctions on the
17 basis of marital or ((family)) families with children status.

18 (4) This section shall not be construed to require structural
19 changes, modifications, or additions to make facilities accessible to
20 a handicapped person except as otherwise required by law. Nothing in
21 this section affects the rights and responsibilities of landlords and
22 tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to
23 post and enforce reasonable rules of conduct and safety for all tenants
24 and their guests. Nor does anything in this section limit the
25 applicability of any reasonable federal, state, or local restrictions
26 regarding the maximum number of occupants permitted to occupy a
27 dwelling.

28 (5) Notwithstanding any other provision of this chapter, it shall
29 not be an unfair practice for any public establishment providing for
30 accommodations offered for the full enjoyment of transient guests as

1 defined by RCW 9.91.010(1)(c) to make distinctions on the basis of
2 families with children status. Nothing in this section shall limit the
3 effect of RCW 49.60.215 relating to unfair practices in places of
4 public accommodation.

5 (6) Nothing in this chapter prohibiting discrimination based on
6 families with children status applies to housing for older persons as
7 defined by the federal fair housing amendments act of 1988, 42 U.S.C.
8 Sec. 3607(b)(1) through (3). Nothing in this chapter authorizes
9 requirements for housing for older persons different than the
10 requirements in the federal fair housing amendments act of 1988, 42
11 U.S.C. Sec 3607(b)(1) through (3)."

12 **"Sec. 6.** RCW 49.60.223 and 1979 c 127 s 9 are each amended to read
13 as follows:

14 It is an unfair practice for any person, for profit, to induce or
15 attempt to induce any person to sell or rent any real property by
16 representations regarding the entry or prospective entry into the
17 neighborhood of a person or persons of a particular race, creed, color,
18 sex, national origin, families with children status, or with any
19 sensory, mental, or physical handicap or the use of a trained guide dog
20 or service dog by a blind, deaf, or physically disabled person."

21 **"NEW SECTION. Sec. 7.** A new section is added to chapter 49.60 RCW
22 to read as follows:

23 It is an unlawful practice to coerce, intimidate, threaten, or
24 interfere with any person in the exercise or enjoyment of, or on
25 account of his or her having exercised or enjoyed, or on account of his
26 or her having aided or encouraged any other person in the exercise or
27 enjoyment of, rights secured by RCW 49.60.030, 49.60.040, and 49.60.222
28 through 49.60.224."

1 **"Sec. 8.** RCW 49.60.224 and 1979 c 127 s 10 are each amended to
2 read as follows:

3 (1) Every provision in a written instrument relating to real
4 property which purports to forbid or restrict the conveyance,
5 encumbrance, occupancy, or lease thereof to individuals of a specified
6 race, creed, color, sex, national origin, families with children
7 status, or with any sensory, mental, or physical handicap, and every
8 condition, restriction, or prohibition, including a right of entry or
9 possibility of reverter, which directly or indirectly limits the use or
10 occupancy of real property on the basis of race, creed, color, sex,
11 national origin, families with children status, or the presence of any
12 sensory, mental, or physical handicap or the use of a trained guide dog
13 or service dog by a blind, deaf, or physically disabled person is void.

14 (2) It is an unfair practice to insert in a written instrument
15 relating to real property a provision that is void under this section
16 or to honor or attempt to honor such a provision in the chain of
17 title."

18 **"Sec. 9.** RCW 49.60.225 and 1985 c 185 s 19 are each amended to
19 read as follows:

20 (1) When a reasonable cause determination has been made under RCW
21 49.60.250 that an unfair practice (~~((involving real property))~~) in a real
22 estate transaction has been committed, the (~~((commission may, in~~
23 ~~addition to other relief authorized by RCW 49.60.250, award the~~
24 ~~complainant up to one thousand dollars))~~) administrative law judge shall
25 promptly issue an order for such relief suffered by the aggrieved party
26 as may be appropriate, which may include actual damages as provided by
27 Title VIII, and the federal fair housing amendments act of 1988 (42
28 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable relief.

1 Such order may, to further the public interest, assess a civil penalty
2 against the respondent:

3 (a) In an amount up to ten thousand dollars if the respondent has
4 not been adjudged to have committed any prior unfair practice in a real
5 estate transaction;

6 (b) In an amount up to twenty-five thousand dollars if the
7 respondent has been adjudged to have committed one other unfair
8 practice in a real estate transaction during the five-year period
9 ending on the date of the filing of this charge; or

10 (c) In an amount up to fifty thousand dollars if the respondent has
11 been adjudged to have committed two or more unfair practices in a real
12 estate transaction during the seven-year period ending on the date of
13 the filing of this charge, for loss of the right secured by RCW
14 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through ((49.60.226))
15 49.60.224, as now or hereafter amended, to be free from discrimination
16 in real property transactions because of sex, marital status, race,
17 creed, color, national origin, families with children status, or the
18 presence of any sensory, mental, or physical handicap or the use of a
19 trained guide dog or service dog by a blind, deaf, or physically
20 disabled person. Enforcement of the order and appeal therefrom by the
21 complainant or respondent ((shall)) may be made as provided in RCW
22 49.60.260 and 49.60.270. If acts constituting the unfair practice in
23 a real estate transaction that is the object of the charge are
24 committed by the same natural person who has been previously adjudged
25 to have committed acts constituting an unfair practice in a real estate
26 transaction, then the civil penalty may be imposed without regard to
27 the period of time within which any subsequent unfair practice in a
28 real estate transaction occurred. All civil penalties assessed under
29 this section shall be paid into the state treasury and credited to the
30 general fund.

1 (2) Such order shall not affect any contract, sale, conveyance,
2 encumbrance, or lease consummated before the issuance of an order that
3 involves a bona fide purchaser, encumbrancer, or tenant without actual
4 notice of the charge filed under this chapter.

5 (3) Notwithstanding any other provision of this chapter, persons
6 awarded a remedy under this section may not receive additional damages
7 pursuant to RCW 49.60.250."

8 **"Sec. 10.** RCW 49.60.227 and 1987 c 56 s 2 are each amended to read
9 as follows:

10 If a written instrument contains a provision that is void by reason
11 of RCW 49.60.224, either the owner, occupant, or tenant of the property
12 which is subject to the provision may cause the provision to be
13 stricken from the public records by bringing an action in the superior
14 court in the county in which the property is located. The action shall
15 be an in rem, declaratory judgment action whose title shall be the
16 description of the property. The necessary party to the action shall
17 be either the owner, occupant, or tenant of the property or any portion
18 thereof.

19 If the court finds that any provisions of the written instrument
20 are void under RCW 49.60.224, it shall enter an order striking the void
21 provisions from the public records and eliminating the void provisions
22 from the title or lease of the property described in the complaint."

23 **"Sec. 11.** RCW 49.60.230 and 1985 c 185 s 21 are each amended to
24 read as follows:

25 (1) Who may file a complaint:

26 ~~((1))~~ (a) Any person claiming to be aggrieved by an alleged
27 unfair practice may, personally or by his or her attorney, make, sign,
28 and file with the commission a complaint in writing under oath. The

1 complaint shall state the name and address of the person alleged to
2 have committed the unfair practice and the particulars thereof, and
3 contain such other information as may be required by the commission.

4 ~~((+2))~~ (b) Whenever it has reason to believe that any person has
5 been engaged or is engaging in an unfair practice, the commission may
6 issue a complaint.

7 ~~((+3))~~ (c) Any employer or principal whose employees, or agents,
8 or any of them, refuse or threaten to refuse to comply with the
9 provisions of this chapter may file with the commission a written
10 complaint under oath asking for assistance by conciliation or other
11 remedial action.

12 (2) Any complaint filed pursuant to this section must be so filed
13 within six months after the alleged act of discrimination except that
14 complaints alleging discrimination with respect to real estate
15 transactions pursuant to RCW 49.60.222, 49.60.223, and 49.60.224 must
16 be so filed within one year after the alleged discriminatory housing
17 practice has occurred or terminated."

18 "NEW SECTION. Sec. 12. A new section is added to chapter 49.60
19 RCW to read as follows:

20 (1) Any complainant or respondent on whose behalf the reasonable
21 cause finding was made, may elect to have the claims on which
22 reasonable cause was found decided in a civil action under RCW
23 49.60.030(2) in lieu of a hearing under RCW 49.60.250. This election
24 must be made not later than twenty days after the service of the
25 reasonable cause finding. The person making such election shall give
26 notice of doing so to the commission and to all other parties and
27 respondents to whom the charge relates. Any reasonable cause finding
28 issued by the commission pursuant to the procedures contained in this
29 chapter shall become final twenty days after service of the reasonable

1 cause finding unless a written notice of election is received by the
2 commission within the twenty-day period.

3 (2) If an election is made under subsection (1) of this section,
4 the commission shall authorize not later than thirty days after the
5 election is made, and the attorney general shall commence, a civil
6 action on behalf of the aggrieved person in a superior court of the
7 state of Washington seeking relief under this section.

8 (3) Any aggrieved person with respect to the issues to be
9 determined in a civil action under this section may intervene as of
10 right in that civil action.

11 (4) In a civil action under this section, if the court finds that
12 an unfair practice in a real estate transaction has occurred or is
13 about to occur, the court may grant any relief that a court could grant
14 with respect to such an unfair practice in a real estate transaction in
15 a civil action under RCW 49.60.030(2). If monetary relief is sought
16 for the benefit of an aggrieved person who does not intervene in the
17 civil action, the court shall not award such relief if that aggrieved
18 person has not complied with discovery orders entered by the court.

19 (5) In any administrative proceeding brought under this section or
20 any court proceeding arising under this section, the court in its
21 discretion may allow the prevailing party reasonable attorneys' fees
22 and costs."

23 **"Sec. 13.** RCW 49.60.250 and 1989 c 175 s 115 are each amended to
24 read as follows:

25 (1) In case of failure to reach an agreement for the elimination of
26 such unfair practice, and upon the entry of findings to that effect,
27 the entire file, including the complaint and any and all findings made,
28 shall be certified to the chairperson of the commission. The
29 chairperson of the commission shall thereupon request the appointment

1 of an administrative law judge under Title 34 RCW to hear the complaint
2 and shall cause to be issued and served in the name of the commission
3 a written notice, together with a copy of the complaint, as the same
4 may have been amended, requiring the respondent to answer the charges
5 of the complaint at a hearing before the administrative law judge, at
6 a time and place to be specified in such notice.

7 (2) The place of any such hearing may be the office of the
8 commission or another place designated by it. The case in support of
9 the complaint shall be presented at the hearing by counsel for the
10 commission: PROVIDED, That the complainant may retain independent
11 counsel and submit testimony and be fully heard. No member or employee
12 of the commission who previously made the investigation or caused the
13 notice to be issued shall participate in the hearing except as a
14 witness, nor shall the member or employee participate in the
15 deliberations of the administrative law judge in such case. Any
16 endeavors or negotiations for conciliation shall not be received in
17 evidence.

18 (3) The respondent shall file a written answer to the complaint and
19 appear at the hearing in person or otherwise, with or without counsel,
20 and submit testimony and be fully heard. The respondent has the right
21 to cross-examine the complainant.

22 (4) The administrative law judge conducting any hearing may permit
23 reasonable amendment to any complaint or answer. Testimony taken at
24 the hearing shall be under oath and recorded.

25 (5) If, upon all the evidence, the administrative law judge finds
26 that the respondent has engaged in any unfair practice, the
27 administrative law judge shall state findings of fact and shall issue
28 and file with the commission and cause to be served on such respondent
29 an order requiring such respondent to cease and desist from such unfair
30 practice and to take such affirmative action, including, (but not

1 limited to) hiring, reinstatement or upgrading of employees, with or
2 without back pay, an admission or restoration to full membership rights
3 in any respondent organization, or to take such other action as, in the
4 judgment of the administrative law judge, will effectuate the purposes
5 of this chapter, including action that could be ordered by a court,
6 except that damages for humiliation and mental suffering shall not
7 exceed ((one)) five thousand dollars, and including a requirement for
8 report of the matter on compliance. Relief available for violations of
9 RCW 49.60.222 through 49.60.224 shall be limited to the relief
10 specified in RCW 49.60.225.

11 (6) The final order of the administrative law judge shall include
12 a notice to the parties of the right to obtain judicial review of the
13 order by appeal in accordance with the provisions of RCW 34.05.510
14 through 34.05.598, and that such appeal must be served and filed within
15 thirty days after the service of the order on the parties.

16 (7) If, upon all the evidence, the administrative law judge finds
17 that the respondent has not engaged in any alleged unfair practice, the
18 administrative law judge shall state findings of fact and shall
19 similarly issue and file an order dismissing the complaint.

20 (8) An order dismissing a complaint may include an award of
21 reasonable attorneys' fees in favor of the respondent if the
22 administrative law judge concludes that the complaint was frivolous,
23 unreasonable, or groundless.

24 (9) The commission shall establish rules of practice to govern,
25 expedite, and effectuate the foregoing procedure."

26 "**Sec. 14.** RCW 49.60.260 and 1989 c 175 s 116 are each amended to
27 read as follows:

28 (1) The commission ((shall)) or any person entitled to relief under
29 any final order may petition the court within the county wherein any

1 unfair practice occurred or wherein any person charged with an unfair
2 practice resides or transacts business for the enforcement of any final
3 order which is not complied with and is issued by the commission or an
4 administrative law judge under the provisions of this chapter and for
5 appropriate temporary relief or a restraining order, and shall certify
6 and file in court the final order sought to be enforced. Within five
7 days after filing such petition in court, the commission or any person
8 entitled to relief under any final order shall cause a notice of the
9 petition to be sent by certified mail to all parties or their
10 representatives.

11 (2) If before the expiration of sixty days after the date the
12 administrative law judge's order is entered, no petition has been filed
13 under subsection (1) of this section and the commission has not sought
14 enforcement of the final order under this section, any person entitled
15 to relief under any final order may petition for a decree enforcing the
16 order in the superior courts of the state of Washington for the county
17 in which the discriminatory housing practice under RCW 49.60.222
18 through 49.60.224 is alleged to have occurred.

19 (3) From the time the petition is filed, the court shall have
20 jurisdiction of the proceedings and of the questions determined
21 thereon, and shall have the power to grant such temporary relief or
22 restraining order as it deems just and suitable.

23 ~~((3))~~ (4) If the petition shows that there is a final order
24 issued by the commission or administrative law judge under RCW
25 49.60.240 or 49.60.250 and that the order has not been complied with in
26 whole or in part, the court shall issue an order directing the person
27 who is alleged to have not complied with the administrative order to
28 appear in court at a time designated in the order, not less than ten
29 days from the date thereof, and show cause why the administrative order
30 should not be enforced according to the terms. The commission or any

1 person entitled to relief of any final order shall immediately serve
2 the ((~~person~~)) noncomplying party with a copy of the court order and
3 the petition.

4 ((~~(4)~~)) (5) The administrative order shall be enforced by the court
5 if the person does not appear, or if the person appears and the court
6 finds that:

7 (a) The order is regular on its face;

8 (b) The order has not been complied with; and

9 (c) The person's answer discloses no valid reason why the order
10 should not be enforced, or that the reason given in the person's answer
11 could have been raised by review under RCW 34.05.510 through 34.05.598,
12 and the person has given no valid excuse for failing to use that
13 remedy.

14 ((~~(5)~~)) (6) The jurisdiction of the court shall be exclusive and
15 its judgment and decree shall be final, except that the same shall be
16 subject to appellate review by the supreme court or the court of
17 appeals, on appeal, by either party, irrespective of the nature of the
18 decree or judgment. The review shall be taken and prosecuted in the
19 same manner and form and with the same effect as is provided in other
20 cases."

21 "Sec. 15. RCW 49.60.330 and 1983 c 5 s 2 are each amended to read
22 as follows:

23 Any county or any city classified as a first class city under RCW
24 35.01.010 with over one hundred twenty five thousand population may
25 enact resolutions or ordinances consistent with this chapter to provide
26 administrative and/or judicial remedies for any form of discrimination
27 proscribed by this chapter(~~(:—PROVIDED, That)~~). The imposition of
28 such administrative remedies shall be subject to judicial review. The
29 superior courts shall have jurisdiction to hear all matters relating to

1 violation and enforcement of such resolutions or ordinances, including
2 petitions for preliminary relief, the award of such remedies and civil
3 penalties as are consistent with this chapter, and enforcement of any
4 order of a county or city administrative law judge or hearing examiner
5 pursuant to such resolution or ordinance. Any local resolution or
6 ordinance not inconsistent with this chapter may provide, after a
7 finding of reasonable cause to believe that discrimination has
8 occurred, for the filing of an action in, or the removal of the matter
9 to, the superior court."

10 "NEW SECTION. **Sec. 16.** A new section is added to chapter 49.60
11 RCW to read as follows:

12 Sections 1 through 15 of this act apply prospectively only and not
13 retroactively. Sections 1 through 15 of this act apply only to causes
14 of action that arise or that are decided on or after the effective date
15 of this section."

16 **HB 2598** - S COMM AMD
17 By Committee on Commerce & Labor

18
19 On page 1, line 1 of the title, after "discrimination;" strike the
20 remainder of the title and insert "amending RCW 49.60.030, 49.60.222,
21 49.60.223, 49.60.224, 49.60.225, 49.60.227, 49.60.230, 49.60.250,
22 49.60.260, and 49.60.330; reenacting and amending RCW 49.60.040; adding
23 new sections to chapter 49.60 RCW; and prescribing penalties."