

HB 1956 - H AMD TO H AMD (1956 AMH DUNN CORD 038) **168**
By Representative Schindler

ADOPTED 3/9/2007

1 On page 1, line 10 of the amendment, after "(2)" insert the
2 following:

3 " (a) When a finding has been made under RCW 49.60.250 that the
4 respondent has engaged in an unfair practice under this section,
5 the administrative law judge shall promptly issue an order for
6 appropriate relief for the aggrieved party, which may include
7 actual damages and injunctive or other equitable relief. The order
8 may, to further the public interest, assess a civil penalty against
9 the respondent:

10 (i) In an amount up to two thousand five hundred dollars if the
11 respondent is determined not to have committed any prior unfair
12 practices under this section;

13 (ii) In an amount up to seven thousand five hundred dollars if
14 the respondent is determined to have committed one other unfair
15 practice under this section during the five-year period ending on
16 the date of the filing of this charge; or

17 (iii) In an amount up to ten thousand dollars if the respondent
18 is determined to have committed two or more unfair practices under
19 this section during the seven-year period ending on the date of the
20 filing of this charge.

21 (b) Civil penalties assessed under this section shall be paid
22 into the state treasury and credited to the general fund.

23 (3)"

24 On page 1, line 23 of the amendment, strike "(3)" and insert
25 "(4)"

26 On page 1, after line 29 of the amendment, insert the
27 following:

28 "**Sec. 2.** RCW 49.60.250 and 1993 c 510 s 23 are each amended to
29 read as follows:

1 (1) In case of failure to reach an agreement for the
2 elimination of such unfair practice, and upon the entry of findings
3 to that effect, the entire file, including the complaint and any
4 and all findings made, shall be certified to the chairperson of the
5 commission. The chairperson of the commission shall thereupon
6 request the appointment of an administrative law judge under Title
7 34 RCW to hear the complaint and shall cause to be issued and
8 served in the name of the commission a written notice, together
9 with a copy of the complaint, as the same may have been amended,
10 requiring the respondent to answer the charges of the complaint at
11 a hearing before the administrative law judge, at a time and place
12 to be specified in such notice.

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

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

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

31 (5) If, upon all the evidence, the administrative law judge
32 finds that the respondent has engaged in any unfair practice, the
33 administrative law judge shall state findings of fact and shall
34 issue and file with the commission and cause to be served on such
35 respondent an order requiring such respondent to cease and desist
36 from such unfair practice and to take such affirmative action,
37 including, (but not limited to) hiring, reinstatement or upgrading
38 of employees, with or without back pay, an admission or restoration
39 to full membership rights in any respondent organization, or to

1 take such other action as, in the judgment of the administrative
2 law judge, will effectuate the purposes of this chapter, including
3 action that could be ordered by a court, except that damages for
4 humiliation and mental suffering shall not exceed ten thousand
5 dollars, and including a requirement for report of the matter on
6 compliance. Relief available for violations of RCW 49.60.222
7 through 49.60.224 shall be limited to the relief specified in RCW
8 49.60.225. Relief available for violations of section 1 of this
9 act shall be limited to the relief specified section 1(2) of this
10 act.

11 (6) If a determination is made that retaliatory action, as
12 defined in RCW 42.40.050, has been taken against a whistleblower,
13 as defined in RCW 42.40.020, the administrative law judge may, in
14 addition to any other remedy, impose a civil penalty upon the
15 retaliator of up to three thousand dollars and issue an order to
16 the state employer to suspend the retaliator for up to thirty days
17 without pay. At a minimum, the administrative law judge shall
18 require that a letter of reprimand be placed in the retaliator's
19 personnel file. All penalties recovered shall be paid into the
20 state treasury and credited to the general fund.

21 (7) The final order of the administrative law judge shall
22 include a notice to the parties of the right to obtain judicial
23 review of the order by appeal in accordance with the provisions of
24 RCW 34.05.510 through 34.05.598, and that such appeal must be
25 served and filed within thirty days after the service of the order
26 on the parties.

27 (8) If, upon all the evidence, the administrative law judge
28 finds that the respondent has not engaged in any alleged unfair
29 practice, the administrative law judge shall state findings of fact
30 and shall similarly issue and file an order dismissing the
31 complaint.

32 (9) An order dismissing a complaint may include an award of
33 reasonable attorneys' fees in favor of the respondent if the
34 administrative law judge concludes that the complaint was
35 frivolous, unreasonable, or groundless.

36 (10) The commission shall establish rules of practice to
37 govern, expedite, and effectuate the foregoing procedure."

EFFECT: Adds specific civil penalties for violating the prohibition on discriminating in rental transactions based on "lawful income" as follows:

For a first violation, up to \$5,000;

For a second violation, in a 5-year period, up to \$7,500;
or

For two or more violations in a 7-year period, up to \$10,000.