
SENATE BILL 5538

State of Washington

53rd Legislature

1993 Regular Session

By Senators Pelz, Drew, Sellar, Prentice, Spanel, Williams, Prince, Fraser, Franklin and Winsley; by request of Human Rights Commission

Read first time 02/02/93. Referred to Committee on Law & Justice.

1 AN ACT Relating to meeting federal fair housing act requirements
2 for housing equivalency; amending RCW 49.60.030, 49.60.120, 49.60.222,
3 49.60.223, 49.60.224, 49.60.225, 49.60.227, 49.60.230, 49.60.240,
4 49.60.250, 49.60.260, and 49.60.330; reenacting and amending RCW
5 49.60.040; adding new sections to chapter 49.60 RCW; and prescribing
6 penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

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

1 (c) The right to engage in real estate transactions without
2 discrimination, including discrimination against families with
3 children;

4 (d) The right to engage in credit transactions without
5 discrimination;

6 (e) The right to engage in insurance transactions or transactions
7 with health maintenance organizations without discrimination:
8 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
9 48.44.220, or 48.46.370 does not constitute an unfair practice for the
10 purposes of this subparagraph; and

11 (f) The right to engage in commerce free from any discriminatory
12 boycotts or blacklists. Discriminatory boycotts or blacklists for
13 purposes of this section shall be defined as the formation or execution
14 of any express or implied agreement, understanding, policy or
15 contractual arrangement for economic benefit between any persons which
16 is not specifically authorized by the laws of the United States and
17 which is required or imposed, either directly or indirectly, overtly or
18 covertly, by a foreign government or foreign person in order to
19 restrict, condition, prohibit, or interfere with or in order to exclude
20 any person or persons from any business relationship on the basis of
21 race, color, creed, religion, sex, national origin or lawful business
22 relationship: PROVIDED HOWEVER, That nothing herein contained shall
23 prohibit the use of boycotts as authorized by law pertaining to labor
24 disputes and unfair labor practices.

25 (2) Any person deeming himself or herself injured by any act in
26 violation of this chapter shall have a civil action in a court of
27 competent jurisdiction to enjoin further violations, or to recover the
28 actual damages sustained (~~((by him))~~), or both, together with the cost of
29 suit including (~~((a))~~) reasonable (~~((attorney's))~~) attorneys' fees or any
30 other appropriate remedy authorized by this chapter or the United
31 States Civil Rights Act of 1964 as amended, or the federal fair housing
32 amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.); and

33 (3) Notwithstanding any other provisions of this chapter, any act
34 prohibited by this chapter related to sex discrimination or
35 discriminatory boycotts or blacklists which is committed in the course
36 of trade or commerce in the state of Washington as defined in the
37 Consumer Protection Act, chapter 19.86 RCW, shall be deemed an unfair
38 practice within the meaning of RCW 19.86.020 and 19.86.030 and subject
39 to all the provisions of chapter 19.86 RCW as now or hereafter 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;

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

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

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

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

1 (8) "Full enjoyment of" includes the right to purchase any service,
2 commodity, or article of personal property offered or sold on, or by,
3 any establishment to the public, and the admission of any person to
4 accommodations, advantages, facilities, or privileges of any place of
5 public resort, accommodation, assemblage, or amusement, without acts
6 directly or indirectly causing persons of any particular race, creed,
7 color, sex, or with any sensory, mental, or physical ((handicap))
8 disability, or a blind or deaf person using a trained dog guide, to be
9 treated as not welcome, accepted, desired, or solicited;

10 (9) "Any place of public resort, accommodation, assemblage, or
11 amusement" includes, but is not limited to, any place, licensed or
12 unlicensed, kept for gain, hire, or reward, or where charges are made
13 for admission, service, occupancy, or use of any property or
14 facilities, whether conducted for the entertainment, housing, or
15 lodging of transient guests, or for the benefit, use, or accommodation
16 of those seeking health, recreation, or rest, or for the burial or
17 other disposition of human remains, or for the sale of goods,
18 merchandise, services, or personal property, or for the rendering of
19 personal services, or for public conveyance or transportation on land,
20 water, or in the air, including the stations and terminals thereof and
21 the garaging of vehicles, or where food or beverages of any kind are
22 sold for consumption on the premises, or where public amusement,
23 entertainment, sports, or recreation of any kind is offered with or
24 without charge, or where medical service or care is made available, or
25 where the public gathers, congregates, or assembles for amusement,
26 recreation, or public purposes, or public halls, public elevators, and
27 public washrooms of buildings and structures occupied by two or more
28 tenants, or by the owner and one or more tenants, or any public library
29 or educational institution, or schools of special instruction, or
30 nursery schools, or day care centers or children's camps: PROVIDED,
31 That nothing contained in this definition shall be construed to include
32 or apply to any institute, bona fide club, or place of accommodation,
33 which is by its nature distinctly private, including fraternal
34 organizations, though where public use is permitted that use shall be
35 covered by this chapter; nor shall anything contained in this
36 definition apply to any educational facility, columbarium, crematory,
37 mausoleum, or cemetery operated or maintained by a bona fide religious
38 or sectarian institution;

1 (10) "Real property" includes buildings, structures, dwellings,
2 real estate, lands, tenements, leaseholds, interests in real estate
3 cooperatives, condominiums, and hereditaments, corporeal and
4 incorporeal, or any interest therein;

5 (11) "Real estate transaction" includes the sale, appraisal,
6 brokering, exchange, purchase, rental, or lease of real property,
7 transacting or applying for a real estate loan, or the provision of
8 brokerage services;

9 (12) "Dwelling" means any building, structure, or portion thereof
10 that is occupied as, or designed or intended for occupancy as, a
11 residence by one or more families, and any vacant land that is offered
12 for sale or lease for the construction or location thereon of any such
13 building, structure, or portion thereof;

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

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

19 (15) "Complainant" means the person who files a complaint in a real
20 estate transaction;

21 (16) "Credit transaction" includes any open or closed end credit
22 transaction, whether in the nature of a loan, retail installment
23 transaction, credit card issue or charge, or otherwise, and whether for
24 personal or for business purposes, in which a service, finance, or
25 interest charge is imposed, or which provides for repayment in
26 scheduled payments, when such credit is extended in the regular course
27 of any trade or commerce, including but not limited to transactions by
28 banks, savings and loan associations or other financial lending
29 institutions of whatever nature, stock brokers, or by a merchant or
30 mercantile establishment which as part of its ordinary business permits
31 or provides that payment for purchases of property or service therefrom
32 may be deferred;

33 (17) "Families with children status" means when one or more
34 individuals who have not attained the age of eighteen years is
35 domiciled with a parent or another person having legal custody of such
36 individual or individuals, or with the designee of such parent or other
37 person having such legal custody, with the written permission of such
38 parent or other person. Families with children status also applies to
39 any person who is pregnant or is in the process of securing legal

1 custody or guardianship of any individual who has not attained the age
2 of eighteen years.

3 **Sec. 4.** RCW 49.60.120 and 1985 c 185 s 10 are each amended to read
4 as follows:

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

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

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

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

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

17 (5) To issue such publications and such results of investigations
18 and research as in its judgment will tend to promote good will and
19 minimize or eliminate discrimination because of sex, race, creed,
20 color, national origin, marital status, age, or the presence of any
21 sensory, mental, or physical (~~handicap~~) disability.

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

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

35 (8) To foster good relations between minority and majority
36 population groups of the state through seminars, conferences,
37 educational programs, and other intergroup relations activities.

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

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

9 (~~(1)~~) (a) To refuse to engage in a real estate transaction with
10 a person;

11 (~~(2)~~) (b) To discriminate against a person in the terms,
12 conditions, or privileges of a real estate transaction or in the
13 furnishing of facilities or services in connection therewith;

14 (~~(3)~~) (c) To refuse to receive or to fail to transmit a bona fide
15 offer to engage in a real estate transaction from a person;

16 (~~(4)~~) (d) To refuse to negotiate for a real estate transaction
17 with a person;

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

23 (~~(6)~~) (f) To discriminate in the sale or rental, or to otherwise
24 make unavailable or deny a dwelling to any person because of a
25 disability of that person, or a person residing in or intending to
26 reside in that dwelling after it is sold, rented, or made unavailable;
27 or any person associated with the person buying or renting;

28 (g) To make, print, circulate, post, or mail, or cause to be so
29 made or published a statement, advertisement, or sign, or to use a form
30 of application for a real estate transaction, or to make a record or
31 inquiry in connection with a prospective real estate transaction, which
32 indicates, directly or indirectly, an intent to make a limitation,
33 specification, or discrimination with respect thereto;

34 (~~(7)~~) (h) To offer, solicit, accept, use, or retain a listing of
35 real property with the understanding that a person may be discriminated
36 against in a real estate transaction or in the furnishing of facilities
37 or services in connection therewith;

38 (~~(8)~~) (i) To expel a person from occupancy of real property;

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

9 (~~(10)~~) (k) To attempt to do any of the unfair practices defined
10 in this section.

11 (2) For the purposes of this chapter discrimination based on the
12 presence of any sensory, mental, or physical disability or the use of
13 a trained guide dog or service dog by a blind, deaf, or physically
14 disabled person includes:

15 (a) A refusal to permit, at the expense of the disabled person,
16 reasonable modifications of existing dwelling occupied or to be
17 occupied by such person if such modifications may be necessary to
18 afford such person full enjoyment of the dwelling, except that, in the
19 case of a rental, the landlord may, where it is reasonable to do so,
20 condition permission for a modification on the renter agreeing to
21 restore the interior of the dwelling to the condition that existed
22 before the modification, reasonable wear and tear excepted;

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

29 (c) To fail to design and construct dwellings in conformance with
30 the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et
31 seq.) and all other applicable laws or regulations pertaining to access
32 by persons with any sensory, mental, or physical disability or use of
33 a trained guide dog or service dog. Whenever the requirements of
34 applicable laws or regulations differ, the requirements which require
35 greater accessibility for persons with any sensory, mental, or physical
36 disability shall govern.

37 For purposes of this subsection (2), "dwelling" means any building,
38 structure, or portion thereof that is occupied as, or designed or
39 intended for occupancy as, a residence by four or more families, and

1 any vacant land that is offered for sale or lease for the construction
2 or location thereon of any such building, structure, or portion
3 thereof.

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

10 (4) Except pursuant to subsection (2)(a) of this section, this
11 section shall not be construed to require structural changes,
12 modifications, or additions to make facilities accessible to a
13 (~~handicapped~~) disabled person except as otherwise required by law.
14 Nothing in this section affects the rights (~~and~~), responsibilities,
15 and remedies of landlords and tenants pursuant to chapter 59.18 or
16 59.20 RCW, including the right to post and enforce reasonable rules of
17 conduct and safety for all tenants and their guests, provided that
18 chapters 59.18 and 59.20 RCW are only affected to the extent they are
19 inconsistent with the nondiscrimination requirements of this chapter.
20 Nothing in this section limits the applicability of any reasonable
21 federal, state, or local restrictions regarding the maximum number of
22 occupants permitted to occupy a dwelling.

23 (5) Notwithstanding any other provision of this chapter, it shall
24 not be an unfair practice for any public establishment providing for
25 accommodations offered for the full enjoyment of transient guests as
26 defined by RCW 9.91.010(1)(c) to make distinctions on the basis of
27 families with children status. Nothing in this section shall limit the
28 effect of RCW 49.60.215 relating to unfair practices in places of
29 public accommodation.

30 (6) Nothing in this chapter prohibiting discrimination based on
31 families with children status applies to housing for older persons as
32 defined by the federal fair housing amendments act of 1988, 42 U.S.C.
33 Sec. 3607(b)(1) through (3). Nothing in this chapter authorizes
34 requirements for housing for older persons different than the
35 requirements in the federal fair housing amendments act of 1988, 42
36 U.S.C. Sec 3607(b)(1) through (3).

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

1 It is an unfair practice for any person, for profit, to induce or
2 attempt to induce any person to sell or rent any real property by
3 representations regarding the entry or prospective entry into the
4 neighborhood of a person or persons of a particular race, creed, color,
5 sex, national origin, families with children status, or with any
6 sensory, mental, or physical ((handicap)) disability or the use of a
7 trained guide dog or service dog by a blind, deaf, or physically
8 disabled person.

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 49.60 RCW
10 to be codified between RCW 49.60.222 and 49.60.224 to read as follows:

11 It is an unlawful practice to coerce, intimidate, threaten, or
12 interfere with any person in the exercise or enjoyment of, or on
13 account of his or her having exercised or enjoyed, or on account of his
14 or her having aided or encouraged any other person in the exercise or
15 enjoyment of, rights regarding real estate transactions secured by RCW
16 49.60.030, 49.60.040, and 49.60.222 through 49.60.224.

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

19 (1) Every provision in a written instrument relating to real
20 property which purports to forbid or restrict the conveyance,
21 encumbrance, occupancy, or lease thereof to individuals of a specified
22 race, creed, color, sex, national origin, families with children
23 status, or with any sensory, mental, or physical ((handicap))
24 disability or the use of a trained guide dog or service dog by a blind,
25 deaf, or physically disabled person, and every condition, restriction,
26 or prohibition, including a right of entry or possibility of reverter,
27 which directly or indirectly limits the use or occupancy of real
28 property on the basis of race, creed, color, sex, national origin,
29 families with children status, or the presence of any sensory, mental,
30 or physical ((handicap)) disability or the use of a trained guide dog
31 or service dog by a blind, deaf, or physically disabled person is void.

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

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

1 (1) When a reasonable cause determination has been made under RCW
2 (~~49.60.250~~) 49.60.240 that an unfair practice (~~(involving real~~
3 ~~property)~~) in a real estate transaction has been committed and a
4 finding has been made that the respondent has engaged in any unfair
5 practice under RCW 49.60.250, the (~~commission may, in addition to~~
6 ~~other relief authorized by RCW 49.60.250, award the complainant up to~~
7 ~~one thousand dollars~~) administrative law judge shall promptly issue an
8 order for such relief suffered by the aggrieved person as may be
9 appropriate, which may include actual damages as provided by Title VIII
10 of the United States civil rights act of 1964, as amended, and the
11 federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et
12 seq.), and injunctive or other equitable relief. Such order may, to
13 further the public interest, assess a civil penalty against the
14 respondent:

15 (a) In an amount up to ten thousand dollars if the respondent has
16 not been determined to have committed any prior unfair practice in a
17 real estate transaction;

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

22 (c) In an amount up to fifty thousand dollars if the respondent has
23 been determined to have committed two or more unfair practices in a
24 real estate transaction during the seven-year period ending on the date
25 of the filing of this charge, for loss of the right secured by RCW
26 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through (~~49.60.226~~)
27 49.60.224, as now or hereafter amended, to be free from discrimination
28 in real property transactions because of sex, marital status, race,
29 creed, color, national origin, families with children status, or the
30 presence of any sensory, mental, or physical (~~handicap~~) disability or
31 the use of a trained guide dog or service dog by a blind, deaf, or
32 physically disabled person. Enforcement of the order and appeal
33 therefrom by the complainant or respondent (~~shall~~) may be made as
34 provided in RCW 49.60.260 and 49.60.270. If acts constituting the
35 unfair practice in a real estate transaction that is the object of the
36 charge are determined to have been committed by the same natural person
37 who has been previously determined to have committed acts constituting
38 an unfair practice in a real estate transaction, then the civil penalty
39 of up to fifty thousand dollars may be imposed without regard to the

1 period of time within which any subsequent unfair practice in a real
2 estate transaction occurred. All civil penalties assessed under this
3 section shall be paid into the state treasury and credited to the
4 general fund.

5 (2) Such order shall not affect any contract, sale, conveyance,
6 encumbrance, or lease consummated before the issuance of an order that
7 involves a bona fide purchaser, encumbrancer, or tenant who does not
8 have actual notice of the charge filed under this chapter.

9 (3) Notwithstanding any other provision of this chapter, persons
10 awarded damages under this section may not receive additional damages
11 pursuant to RCW 49.60.250.

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

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

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

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

28 (1) Who may file a complaint:

29 ~~((1))~~ (a) Any person claiming to be aggrieved by an alleged
30 unfair practice may, personally or by his or her attorney, make, sign,
31 and file with the commission a complaint in writing under oath. The
32 complaint shall state the name and address of the person alleged to
33 have committed the unfair practice and the particulars thereof, and
34 contain such other information as may be required by the commission.

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

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

6 (2) Any complaint filed pursuant to this section must be so filed
7 within six months after the alleged act of discrimination except that
8 complaints alleging an unfair practice in a real estate transaction
9 pursuant to RCW 49.60.222 through 49.60.225 must be so filed within one
10 year after the alleged unfair practice in a real estate transaction has
11 occurred or terminated.

12 **Sec. 12.** RCW 49.60.240 and 1985 c 185 s 22 are each amended to
13 read as follows:

14 After the filing of any complaint, the chairperson of the
15 commission shall refer it to the appropriate section of the
16 commission's staff for prompt investigation and ascertainment of the
17 facts alleged in the complaint. The investigation shall be limited to
18 the alleged facts contained in the complaint. The results of the
19 investigation shall be reduced to written findings of fact, and a
20 finding shall be made that there is or that there is not reasonable
21 cause for believing that an unfair practice has been or is being
22 committed. A copy of said findings shall be furnished to the
23 complainant and to the person named in such complaint, hereinafter
24 referred to as the respondent.

25 If the finding is made that there is reasonable cause for believing
26 that an unfair practice has been or is being committed, the
27 commission's staff shall immediately endeavor to eliminate the unfair
28 practice by conference, conciliation, and persuasion.

29 If an agreement is reached for the elimination of such unfair
30 practice as a result of such conference, conciliation, and persuasion,
31 the agreement shall be reduced to writing and signed by the respondent,
32 and an order shall be entered by the commission setting forth the terms
33 of said agreement. No order shall be entered by the commission at this
34 stage of the proceedings except upon such written agreement, except
35 that during the period beginning with the filing of complaints alleging
36 an unfair practice with respect to real estate transactions pursuant to
37 RCW 49.60.222 through 49.60.225, and ending with the filing of a
38 finding of reasonable cause or a dismissal by the commission, the

1 commission staff shall, to the extent feasible, engage in conciliation
2 with respect to such complaint. Any conciliation agreement arising out
3 of conciliation efforts by the commission shall be an agreement between
4 the respondent and the complainant and shall be subject to the approval
5 of the commission. Each conciliation agreement shall be made public
6 unless the complainant and respondent otherwise agree and the
7 commission determines that disclosure is not required to further the
8 purposes of this chapter.

9 If no such agreement can be reached, a finding to that effect shall
10 be made and reduced to writing, with a copy thereof furnished to the
11 complainant and the respondent.

12 NEW SECTION. Sec. 13. A new section is added to chapter 49.60 RCW
13 to read as follows:

14 (1) Any complainant on whose behalf the reasonable cause finding
15 was made, a respondent, or an aggrieved person may, with respect to
16 real estate transactions pursuant to RCW 49.60.222 through 49.60.225,
17 elect to have the claims on which reasonable cause was found decided in
18 a civil action under RCW 49.60.030(2) in lieu of a hearing under RCW
19 49.60.250. This election must be made not later than twenty days after
20 the service of the reasonable cause finding. The person making such
21 election shall give notice of doing so to the commission and to all
22 other complainants and respondents to whom the charge relates. Any
23 reasonable cause finding issued by the commission pursuant to the
24 procedures contained in this chapter shall become final twenty days
25 after service of the reasonable cause finding unless a written notice
26 of election is received by the commission within the twenty-day period.

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

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

35 (4) In a civil action under this section, if the court finds that
36 an unfair practice in a real estate transaction has occurred or is
37 about to occur, the court may grant any relief that a court could grant
38 with respect to such an unfair practice in a real estate transaction in

1 a civil action under RCW 49.60.030(2). If monetary relief is sought
2 for the benefit of an aggrieved person who does not intervene in the
3 civil action, the court shall not award such relief if that aggrieved
4 person has not complied with discovery orders entered by the court.

5 (5) In any administrative proceeding under this section where the
6 respondent is the prevailing party, a complainant who intervenes by
7 filing a notice of independent appearance may be liable for reasonable
8 attorneys' fees and costs only to the extent that the intervening
9 participation in the administrative proceeding was frivolous or
10 vexatious, or was for the purpose of harassment.

11 (6) In any administrative proceeding brought under RCW 49.60.225 or
12 any court proceeding arising therefrom, or any civil action under this
13 section, the administrative law judge or the court in its discretion
14 may allow the prevailing party, other than the commission, reasonable
15 attorneys' fees and costs.

16 **Sec. 14.** RCW 49.60.250 and 1992 c 118 s 5 are each amended to read
17 as follows:

18 (1) In case of failure to reach an agreement for the elimination of
19 such unfair practice, and upon the entry of findings to that effect,
20 the entire file, including the complaint and any and all findings made,
21 shall be certified to the chairperson of the commission. The
22 chairperson of the commission shall thereupon request the appointment
23 of an administrative law judge under Title 34 RCW to hear the complaint
24 and shall cause to be issued and served in the name of the commission
25 a written notice, together with a copy of the complaint, as the same
26 may have been amended, requiring the respondent to answer the charges
27 of the complaint at a hearing before the administrative law judge, at
28 a time and place to be specified in such notice.

29 (2) The place of any such hearing may be the office of the
30 commission or another place designated by it. The case in support of
31 the complaint shall be presented at the hearing by counsel for the
32 commission: PROVIDED, That the complainant may retain independent
33 counsel and submit testimony and be fully heard. No member or employee
34 of the commission who previously made the investigation or caused the
35 notice to be issued shall participate in the hearing except as a
36 witness, nor shall the member or employee participate in the
37 deliberations of the administrative law judge in such case. Any

1 endeavors or negotiations for conciliation shall not be received in
2 evidence.

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

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

10 (5) If, upon all the evidence, the administrative law judge finds
11 that the respondent has engaged in any unfair practice, the
12 administrative law judge shall state findings of fact and shall issue
13 and file with the commission and cause to be served on such respondent
14 an order requiring such respondent to cease and desist from such unfair
15 practice and to take such affirmative action, including, (but not
16 limited to) hiring, reinstatement or upgrading of employees, with or
17 without back pay, an admission or restoration to full membership rights
18 in any respondent organization, or to take such other action as, in the
19 judgment of the administrative law judge, will effectuate the purposes
20 of this chapter, including action that could be ordered by a court,
21 except that damages for humiliation and mental suffering shall not
22 exceed one thousand dollars, and including a requirement for report of
23 the matter on compliance. Relief available for violations of RCW
24 49.60.222 through 49.60.224 shall be limited to the relief specified in
25 RCW 49.60.225.

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

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

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

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

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

11 **Sec. 15.** RCW 49.60.260 and 1989 c 175 s 116 are each amended to
12 read as follows:

13 (1) The commission (~~(shall)~~) may petition the court within the
14 county wherein any unfair practice occurred or wherein any person
15 charged with an unfair practice resides or transacts business for the
16 enforcement of any final order which is not complied with and is issued
17 by the commission or an administrative law judge under the provisions
18 of this chapter and for appropriate temporary relief or a restraining
19 order, and shall certify and file in court the final order sought to be
20 enforced. Within five days after filing such petition in court, the
21 commission shall cause a notice of the petition to be sent by certified
22 mail to all parties or their representatives.

23 (2) If within sixty days after the date the administrative law
24 judge's order concerning an unfair practice in a real estate
25 transaction is entered, no petition has been filed under subsection (1)
26 of this section and the commission has not sought enforcement of the
27 final order under this section, any person entitled to relief under the
28 final order may petition for a decree enforcing the order in the
29 superior courts of the state of Washington for the county in which the
30 unfair practice in a real estate transaction under RCW 49.60.222
31 through 49.60.224 is alleged to have occurred.

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

36 (~~(+3)~~) (4) If the petition shows that there is a final order
37 issued by the commission or administrative law judge under RCW
38 49.60.240 or 49.60.250 and that the order has not been complied with in

1 whole or in part, the court shall issue an order directing the person
2 who is alleged to have not complied with the administrative order to
3 appear in court at a time designated in the order, not less than ten
4 days from the date thereof, and show cause why the administrative order
5 should not be enforced according to the terms. The commission or any
6 person entitled to relief of any final order shall immediately serve
7 the ((~~person~~)) noncomplying party with a copy of the court order and
8 the petition.

9 ((~~(4)~~)) (5) The administrative order shall be enforced by the court
10 if the person does not appear, or if the person appears and the court
11 finds that:

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

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

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

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

26 **Sec. 16.** RCW 49.60.330 and 1983 c 5 s 2 are each amended to read
27 as follows:

28 Any county or any city classified as a first class city under RCW
29 35.01.010 with over one hundred twenty five thousand population may
30 enact resolutions or ordinances consistent with this chapter to provide
31 administrative and/or judicial remedies for any form of discrimination
32 proscribed by this chapter(~~(:—PROVIDED, That)~~). The imposition of
33 such administrative remedies shall be subject to judicial review. The
34 superior courts shall have jurisdiction to hear all matters relating to
35 violation and enforcement of such resolutions or ordinances, including
36 petitions for preliminary relief, the award of such remedies and civil
37 penalties as are consistent with this chapter, and enforcement of any
38 order of a county or city administrative law judge or hearing examiner

1 pursuant to such resolution or ordinance. Any local resolution or
2 ordinance not inconsistent with this chapter may provide, after a
3 finding of reasonable cause to believe that discrimination has
4 occurred, for the filing of an action in, or the removal of the matter
5 to, the superior court.

6 NEW SECTION. Sec. 17. If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

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