



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

**HB4829**

Introduced 1/18/2006, by Rep. William Delgado

#### SYNOPSIS AS INTRODUCED:

775 ILCS 5/7B-102

from Ch. 68, par. 7B-102

Amends the Illinois Human Rights Act. Provides that the failure of the Department of Human Rights to complete its investigation of a charge alleging a violation of the Real Estate Transactions Article within 100 days after the proper filing of the charge is not jurisdictional.

LRB094 16490 WGH 51750 b

1 AN ACT concerning human rights.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Human Rights Act is amended by  
5 changing Section 7B-102 as follows:

6 (775 ILCS 5/7B-102) (from Ch. 68, par. 7B-102)  
7 Sec. 7B-102. Procedures.

8 (A) Charge.

9 (1) Within one year after the date that a civil rights  
10 violation allegedly has been committed or terminated, a  
11 charge in writing under oath or affirmation may be filed  
12 with the Department by an aggrieved party or issued by the  
13 Department itself under the signature of the Director.

14 (2) The charge shall be in such detail as to  
15 substantially apprise any party properly concerned as to  
16 the time, place, and facts surrounding the alleged civil  
17 rights violation.

18 (B) Notice and Response to Charge.

19 (1) The Department shall serve notice upon the  
20 aggrieved party acknowledging such charge and advising the  
21 aggrieved party of the time limits and choice of forums  
22 provided under this Act. The Department shall, within 10  
23 days of the date on which the charge was filed or the  
24 identification of an additional respondent under paragraph  
25 (2) of this subsection, serve on the respondent a copy of  
26 the charge along with a notice identifying the alleged  
27 civil rights violation and advising the respondent of the  
28 procedural rights and obligations of respondents under  
29 this Act and shall require the respondent to file a  
30 verified response to the allegations contained in the  
31 charge within 30 days. The respondent shall serve a copy of  
32 its response on the complainant or his representative. All

1       allegations contained in the charge not timely denied by  
2       the respondent shall be deemed admitted, unless the  
3       respondent states that it is without sufficient  
4       information to form a belief with respect to such  
5       allegation. The Department may issue a notice of default  
6       directed to any respondent who fails to file a verified  
7       response to a charge within 30 days of the date on which  
8       the charge was filed, unless the respondent can demonstrate  
9       good cause as to why such notice should not issue. The term  
10      "good cause" shall be defined by rule promulgated by the  
11      Department. Within 10 days of the date he receives the  
12      respondent's response, the complainant may file his reply  
13      to said response. If he chooses to file a reply, the  
14      complainant shall serve a copy of said reply on the  
15      respondent or his representative. A party shall have the  
16      right to supplement his response or reply at any time that  
17      the investigation of the charge is pending.

18           (2) A person who is not named as a respondent in a  
19      charge, but who is identified as a respondent in the course  
20      of investigation, may be joined as an additional or  
21      substitute respondent upon written notice, under  
22      subsection (B), to such person, from the Department. Such  
23      notice, in addition to meeting the requirements of  
24      subsections (A) and (B), shall explain the basis for the  
25      Department's belief that a person to whom the notice is  
26      addressed is properly joined as a respondent.

27      (C) Investigation.

28           (1) The Department shall conduct a full investigation  
29      of the allegations set forth in the charge and complete  
30      such investigation within 100 days after the filing of the  
31      charge, unless it is impracticable to do so. Failure to  
32      complete the investigation within 100 days after the proper  
33      filing of the charge is not jurisdictional.

34           (2) If the Department is unable to complete the  
35      investigation within 100 days after the charge is filed,  
36      the Department shall notify the complainant and respondent

1 in writing of the reasons for not doing so.

2 (3) The Director or his or her designated  
3 representative shall have authority to request any member  
4 of the Commission to issue subpoenas to compel the  
5 attendance of a witness or the production for examination  
6 of any books, records or documents whatsoever.

7 (4) If any witness whose testimony is required for any  
8 investigation resides outside the State, or through  
9 illness or any other good cause as determined by the  
10 Director is unable to be interviewed by the investigator or  
11 appear at a fact finding conference, his or her testimony  
12 or deposition may be taken, within or without the State, in  
13 the same manner as provided for in the taking of  
14 depositions in civil cases in circuit courts.

15 (5) Upon reasonable notice to the complainant and the  
16 respondent, the Department shall conduct a fact finding  
17 conference, unless prior to 100 days from the date on which  
18 the charge was filed, the Director has determined whether  
19 there is substantial evidence that the alleged civil rights  
20 violation has been committed. A party's failure to attend  
21 the conference without good cause may result in dismissal  
22 or default. A notice of dismissal or default shall be  
23 issued by the Director and shall notify the relevant party  
24 that a request for review may be filed in writing with the  
25 Chief Legal Counsel of the Department within 30 days of  
26 receipt of notice of dismissal or default.

27 (D) Report.

28 (1) Each investigated charge shall be the subject of a  
29 report to the Director. The report shall be a confidential  
30 document subject to review by the Director, authorized  
31 Department employees, the parties, and, where indicated by  
32 this Act, members of the Commission or their designated  
33 hearing officers.

34 The report shall contain:

- 35 (a) the names and dates of contacts with witnesses;  
36 (b) a summary and the date of correspondence and

1 other contacts with the aggrieved party and the  
2 respondent;

3 (c) a summary description of other pertinent  
4 records;

5 (d) a summary of witness statements; and

6 (e) answers to questionnaires.

7 A final report under this paragraph may be amended if  
8 additional evidence is later discovered.

9 (2) Upon review of the report and within 100 days of  
10 the filing of the charge, unless it is impracticable to do  
11 so, the Director shall determine whether there is  
12 substantial evidence that the alleged civil rights  
13 violation has been committed or is about to be committed.  
14 If the Director is unable to make the determination within  
15 100 days after the filing of the charge, the Director shall  
16 notify the complainant and respondent in writing of the  
17 reasons for not doing so. Failure to complete the  
18 investigation within 100 days after the proper filing of  
19 the charge is not jurisdictional.

20 (a) If the Director determines that there is no  
21 substantial evidence, the charge shall be dismissed  
22 and the aggrieved party notified that he or she may  
23 seek review of the dismissal order before the  
24 Commission. The aggrieved party shall have 30 days from  
25 receipt of notice to file a request for review by the  
26 Chief Legal Counsel of the Department. The Director  
27 shall make public disclosure of each such dismissal.

28 (b) If the Director determines that there is  
29 substantial evidence, he or she shall immediately  
30 issue a complaint on behalf of the aggrieved party  
31 pursuant to subsection (F).

32 (E) Conciliation.

33 (1) During the period beginning with the filing of  
34 charge and ending with the filing of a complaint or a  
35 dismissal by the Department, the Department shall, to the  
36 extent feasible, engage in conciliation with respect to

1 such charge.

2 When the Department determines that a formal  
3 conciliation conference is feasible, the aggrieved party  
4 and respondent shall be notified of the time and place of  
5 the conference by registered or certified mail at least 7  
6 days prior thereto and either or both parties shall appear  
7 at the conference in person or by attorney.

8 (2) The place fixed for the conference shall be within  
9 35 miles of the place where the civil rights violation is  
10 alleged to have been committed.

11 (3) Nothing occurring at the conference shall be made  
12 public or used as evidence in a subsequent proceeding for  
13 the purpose of proving a violation under this Act unless  
14 the complainant and respondent agree in writing that such  
15 disclosure be made.

16 (4) A conciliation agreement arising out of such  
17 conciliation shall be an agreement between the respondent  
18 and the complainant, and shall be subject to approval by  
19 the Department and Commission.

20 (5) A conciliation agreement may provide for binding  
21 arbitration of the dispute arising from the charge. Any  
22 such arbitration that results from a conciliation  
23 agreement may award appropriate relief, including monetary  
24 relief.

25 (6) Each conciliation agreement shall be made public  
26 unless the complainant and respondent otherwise agree and  
27 the Department determines that disclosure is not required  
28 to further the purpose of this Act.

29 (F) Complaint.

30 (1) When there is a failure to settle or adjust any  
31 charge through a conciliation conference and the charge is  
32 not dismissed, the Department shall prepare a written  
33 complaint, under oath or affirmation, stating the nature of  
34 the civil rights violation and the relief sought on behalf  
35 of the aggrieved party. Such complaint shall be based on  
36 the final investigation report and need not be limited to

1 the facts or grounds alleged in the charge filed under  
2 subsection (A).

3 (2) The complaint shall be filed with the Commission.

4 (3) The Department may not issue a complaint under this  
5 Section regarding an alleged civil rights violation after  
6 the beginning of the trial of a civil action commenced by  
7 the aggrieved party under any State or federal law, seeking  
8 relief with respect to that alleged civil rights violation.

9 (G) Time Limit.

10 (1) When a charge of a civil rights violation has been  
11 properly filed, the Department, within 100 days thereof,  
12 unless it is impracticable to do so, shall either issue and  
13 file a complaint in the manner and form set forth in this  
14 Section or shall order that no complaint be issued. Any  
15 such order shall be duly served upon both the aggrieved  
16 party and the respondent. Failure to complete the  
17 investigation within 100 days after the proper filing of  
18 the charge is not jurisdictional.

19 (2) The Director shall make available to the aggrieved  
20 party and the respondent, at any time, upon request  
21 following completion of the Department's investigation,  
22 information derived from an investigation and any final  
23 investigative report relating to that investigation.

24 (H) This amendatory Act of 1995 applies to causes of action  
25 filed on or after January 1, 1996.

26 (Source: P.A. 94-326, eff. 7-26-05.)

27 Section 99. Effective date. This Act takes effect upon  
28 becoming law.