



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB4139

Introduced 2/27/2009, by Rep. Timothy L. Schmitz

#### SYNOPSIS AS INTRODUCED:

775 ILCS 5/7-113 new

775 ILCS 5/8A-104

775 ILCS 5/8B-104

from Ch. 68, par. 8A-104

from Ch. 68, par. 8B-104

Amends the Illinois Human Rights Act. Provides that the Department of Human Rights must charge the complainant a fee of \$100 for filing a charge, that the fee must be paid in advance, and that it may not be waived. Provides that if a complainant who has filed a charge with the Equal Employment Opportunity Commission notifies the Department of his or her decision to proceed with the Department, the Department shall charge the complainant the filing fee and the Department shall close the case if the complainant does not pay the filing fee. Provides that no filing fee may be imposed when a charge is issued by the Department itself under the signature of the Director of Human Rights. Provides that the Department may not charge a respondent a filing fee for filing a response, appearance, or other pleading. Provides that the Human Rights Commission, upon finding a civil rights violation, may direct the respondent to pay the amount of the filing fee to the complainant.

LRB096 04428 AJO 14479 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 adding Section 7-113 and changing Sections 8A-104 and 8B-104 as  
6 follows:

7 (775 ILCS 5/7-113 new)

8 Sec. 7-113. Filing fee.

9 (a) As used in this Section, "complainant" includes the  
10 terms "complainant", "aggrieved party", and "charging party"  
11 as used in Articles 7A and 7B.

12 (b) Except as otherwise provided in this Section, the  
13 Department must charge the complainant a fee of \$100 for filing  
14 a charge on or after the effective date of this amendatory Act  
15 of the 96th General Assembly under Article 7A or 7B. The fee  
16 must be paid in advance. The fee may not be waived.

17 (c) If a complainant who has filed a charge with the Equal  
18 Employment Opportunity Commission notifies the Department  
19 under Section 7A-102(A-1) of his or her decision to proceed  
20 with the Department, the Department shall charge the  
21 complainant the filing fee as set forth in subsection (b) and  
22 the Department shall close the case if the complainant does not  
23 pay the fee.

1           (c) No filing fee may be imposed when a charge is issued by  
2           the Department itself under the signature of the Director under  
3           Section 7A-102(A) (1) or 7B-102(A) (1).

4           (d) The Department may not charge a respondent a filing fee  
5           for filing a response, appearance, or other pleading under  
6           Article 7A or 7B.

7           (775 ILCS 5/8A-104) (from Ch. 68, par. 8A-104)

8           Sec. 8A-104. Relief; Penalties. Upon finding a civil rights  
9           violation, a hearing officer may recommend and the Commission  
10          or any three-member panel thereof may provide for any relief or  
11          penalty identified in this Section, separately or in  
12          combination, by entering an order directing the respondent to:

13          (A) Cease and Desist Order. Cease and desist from any  
14          violation of this Act.

15          (B) Actual Damages. Pay actual damages, as reasonably  
16          determined by the Commission, for injury or loss suffered by  
17          the complainant.

18          (C) Hiring; Reinstatement; Promotion; Backpay; Fringe  
19          Benefits. Hire, reinstate or upgrade the complainant with or  
20          without back pay or provide such fringe benefits as the  
21          complainant may have been denied.

22          (D) Restoration of Membership; Admission To Programs.  
23          Admit or restore the complainant to labor organization  
24          membership, to a guidance program, apprenticeship training  
25          program, on the job training program, or other occupational

1 training or retraining program.

2 (E) Public Accommodations. Admit the complainant to a  
3 public accommodation.

4 (F) Services. Extend to the complainant the full and equal  
5 enjoyment of the goods, services, facilities, privileges,  
6 advantages, or accommodations of the respondent.

7 (G) Attorneys Fees; Costs. Pay to the complainant all or a  
8 portion of the costs of maintaining the action, including any  
9 filing fee paid under Section 7-113, reasonable attorney fees  
10 and expert witness fees incurred in maintaining this action  
11 before the Department, the Commission and in any judicial  
12 review and judicial enforcement proceedings. Provided,  
13 however, that no award of attorney fees or costs shall be made  
14 pursuant to this amendatory Act of 1987 with respect to any  
15 charge for which the complaint before the Commission was filed  
16 prior to December 1, 1987. With respect to all charges for  
17 which complaints were filed with the Commission prior to  
18 December 1, 1987, attorney fees and costs shall be awarded  
19 pursuant to the terms of this subsection as it existed prior to  
20 revision by this amendatory Act of 1987.

21 (H) Compliance Report. Report as to the manner of  
22 compliance.

23 (I) Posting of Notices. Post notices in a conspicuous place  
24 which the Commission may publish or cause to be published  
25 setting forth requirements for compliance with this Act or  
26 other relevant information which the Commission determines

1 necessary to explain this Act.

2 (J) Make Complainant Whole. Take such action as may be  
3 necessary to make the individual complainant whole, including,  
4 but not limited to, awards of interest on the complainant's  
5 actual damages and backpay from the date of the civil rights  
6 violation. Provided, however, that no award of prejudgment  
7 interest shall be made pursuant to this amendatory Act of 1987  
8 with respect to any charge in which the complaint before the  
9 Commission was filed prior to December 1, 1987. With respect to  
10 all charges for which complaints were filed with the Commission  
11 prior to December 1, 1987, make whole relief shall be awarded  
12 pursuant to this subsection as it existed prior to revision by  
13 this amendatory Act of 1987.

14 There shall be no distinction made under this Section  
15 between complaints filed by the Department and those filed by  
16 the aggrieved party.

17 (Source: P.A. 86-910.)

18 (775 ILCS 5/8B-104) (from Ch. 68, par. 8B-104)

19 Sec. 8B-104. Relief; Penalties. Upon finding a civil rights  
20 violation, a hearing officer may recommend and the Commission  
21 or any three-member panel thereof may provide for any relief or  
22 penalty identified in this Section, separately or in  
23 combination, by entering an order directing the respondent to:

24 (A) Cease and Desist Order. Cease and desist from any  
25 violation of this Act.

1 (B) Actual Damages. Pay actual damages, as reasonably  
2 determined by the Commission, for injury or loss suffered by  
3 the complainant.

4 (C) Civil Penalty. Pay a civil penalty to vindicate the  
5 public interest:

6 (i) in an amount not exceeding \$10,000 if the respondent  
7 has not been adjudged to have committed any prior civil rights  
8 violation under Article 3;

9 (ii) in an amount not exceeding \$25,000 if the respondent  
10 has been adjudged to have committed one other civil rights  
11 violation under Article 3 during the 5-year period ending on  
12 the date of the filing of this charge; and

13 (iii) in an amount not exceeding \$50,000 if the respondent  
14 has been adjudged to have committed 2 or more civil rights  
15 violations under Article 3 during the 7-year period ending on  
16 the date of the filing of this charge; except that if the acts  
17 constituting the civil rights violation that is the object of  
18 the charge are committed by the same natural person who has  
19 been previously adjudged to have committed acts constituting a  
20 civil rights violation under Article 3, then the civil  
21 penalties set forth in subparagraphs (ii) and (iii) may be  
22 imposed without regard to the period of time within which any  
23 subsequent civil rights violation under Article 3 occurred.

24 (D) Attorney Fees; Costs. Pay to the complainant all or a  
25 portion of the costs of maintaining the action, including any  
26 filing fee paid under Section 7-113, reasonable attorneys fees

1 and expert witness fees incurred in maintaining this action  
2 before the Department, the Commission and in any judicial  
3 review and judicial enforcement proceedings.

4 (E) Compliance Report. Report as to the manner of  
5 compliance.

6 (F) Posting of Notices. Post notices in a conspicuous place  
7 which the Commission may publish or cause to be published  
8 setting forth requirements for compliance with this Act or  
9 other relevant information which the Commission determines  
10 necessary to explain this Act.

11 (G) Make Complainant Whole. Take such action as may be  
12 necessary to make the individual complainant whole, including,  
13 but not limited to, awards of interest on the complainant's  
14 actual damages from the date of the civil rights violation.

15 (Source: P.A. 86-910.)