

LOCAL LAW INTRO. NO. -2006

A LOCAL LAW amending the Laws of Westchester County to expand the remedies that may be imposed by the Westchester County Human Rights Commission in connection with a determination that a respondent has committed an unlawful discriminatory practice.

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. Paragraph "c." of Section 700.11 of the Laws of Westchester County is hereby amended to read as follows:

c. The Executive Director of the commission may initiate a complaint alleging that a respondent has engaged in a pattern or series of unlawful discriminatory practices as set forth in this chapter affecting more than one person. Such complaint shall be signed and verified by the Executive Director and shall set forth the name and address of the person alleged to have committed the unlawful discriminatory practices complained of and the particulars thereof, together with such other information as may be required by the commission. In any complaint initiated by the Executive Director, the relief awarded by the commission in the event of a finding that the respondent has committed the unlawful discriminatory practices complained of shall be limited to the relief authorized in paragraph h. of this section. The Executive Director may withdraw a complaint at any time prior to the service of an answer by the respondent, provided, however, that, upon application by the respondent, the commission may preclude the Executive Director from subsequently filing any complaint based upon the same transactions or occurrences or series of transactions or occurrences as the complaint which was withdrawn. The Executive Director shall serve notice of such withdrawal by mail upon persons aggrieved by the

unlawful discriminatory practices complained of, to the extent that such persons are identified. If not otherwise precluded from doing so by the commission pursuant to paragraph b. of this section, such persons shall be permitted to file a complaint pursuant to paragraph a. of this section based upon the same transactions or occurrences or series of transactions or occurrences as the complaint which was withdrawn by the Executive Director. Such persons may file a complaint within the time period provided for in section 700.12 or within 30 days of the service of withdrawal notice by the Executive Director, whichever is greater.

Section 2. Paragraph “d.” of Section 700.11 of the Laws of Westchester County is hereby amended to read as follows:

d. Within 30 days after the filing of any complaint, the commission shall serve a copy thereof by mail upon the respondent and all persons it deems to be necessary parties. Within 60 days after a complaint is filed, the commission shall determine whether it has jurisdiction. If the commission determines that it has jurisdiction, it shall determine, within 180 days of the filing of the complaint, whether there is probable cause to believe that the person named in the complaint, hereinafter referred to as the respondent, has engaged or is engaging in an unlawful discriminatory practice. If it finds with respect to any respondent that it lacks jurisdiction or that probable cause does not exist, the commission shall issue an order dismissing the complaint as to such respondent, which order shall be served by mail upon all necessary parties to the proceeding.

Section 3. Paragraph “h.” of Section 700.11 of the Laws of Westchester County is hereby amended to read as follows:

h. In the event that the commission shall, after a hearing, determine that a respondent has committed an unlawful discriminatory practice, it shall issue an order containing such of the following provisions as may, in the judgment of the commission, effectuate the purposes of this chapter:

1. Requiring such respondent to cease and desist from such unlawful discriminatory practice;
2. Requiring such respondent to take such affirmative action to remedy the unlawful discriminatory practice, including such of the following as may be applicable and appropriate; hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program or other occupational training or retraining program, the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, evaluating applicants for membership in a place of accommodation without discrimination based on group identity or because of a person's status as a victim of domestic violence, sexual abuse or stalking, and without retaliation or discrimination based on opposition to practices forbidden by this chapter or filing a complaint, testifying or assisting in any proceeding under this chapter;
3. Awarding of compensatory damages, including, but not limited to: actual damages, back pay, front pay, mental anguish and emotional distress, to the person aggrieved by such practice;
4. Awarding of punitive damages against a respondent found to have committed an unlawful discriminatory practice which is found to be willful, wanton or malicious in an amount not to exceed \$10,000.00, to the person aggrieved by such practice;

5. Awarding costs in the form of reimbursement for actual expenses reasonably incurred and reasonable attorney's fees to the person aggrieved by such practice; and

6. Assessing a civil penalty, in cases of housing discrimination only, in an amount not to exceed \$50,000.00, to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory practice, or not to exceed \$100,000.00 to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory practice which is found to be willful, wanton or malicious; and

7. Requiring the respondent to report of the manner of compliance.

Section 4. Paragraph "n." of Section 700.11 of the Laws of Westchester County is hereby amended to read as follows:

n. The commission may award costs pursuant to paragraph k. above only upon a written decision setting forth the conduct on which the award or imposition is based, the reasons why the commission found the conduct to be frivolous, and the reasons why the commission found the amount awarded or imposed to be appropriate. An award of costs shall be set forth in an order of the commission enforceable pursuant to section 700.15.

Section 5. Section 700.15 of the Laws of Westchester County is hereby amended to read as follows:

Any complainant, respondent or other person aggrieved by an order of the commission which is an order after a hearing, a cease and desist order, an order awarding damages, an order dismissing a complaint, an order awarding costs, or by an order of the commission which makes a final disposition of a complaint may obtain judicial review thereof under Article 78 of the Civil Practice Law and Rules, and the commission may obtain an order of court for its enforcement and for the enforcement of any other order of the commission, in a proceeding as provided in this

section. Such proceeding shall be brought in the New York State Supreme Court, Westchester County, or in such other county wherein any person required in the order to cease and desist from an unlawful discriminatory practice or to take other affirmative action resides or transacts business. Such proceeding shall be initiated by the filing of a notice of petition and petition in such court. Thereafter, at a time and in a manner to be specified by the court, the commission shall file with the court a written transcript of the record of all prior proceedings. Upon the filing of a notice of petition and petition, the court shall have jurisdiction of the proceeding and of the questions determined therein.

Section 6. This Local Law shall take effect immediately and shall apply to all complaints pending on or filed on or after such effective date with the Westchester County Human Rights Commission.