

HB 4425

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WEST VIRGINIA LEGISLATURE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



# ENROLLED

HOUSE BILL No. 4425

(By Delegates *Compton, Douglas, Brown,*  
*Ballogha, Leach, Duntwork and*  
*P. White*)



Passed March 12, 1994

In Effect 90 Days from Passage

**ENROLLED**  
**H. B. 4425**

(By DELEGATES COMPTON, DOUGLAS, BROWN, GALLAGHER,  
LEACH, HUNTWORK AND P. WHITE)

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[Passed March 12, 1994; in effect ninety days from passage.]

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AN ACT to amend and reenact section ten, article eleven, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to enlarging the time period in which to file a human rights complaint from one hundred eighty days to three hundred days.

*Be it enacted by the Legislature of West Virginia:*

That section ten, article eleven, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 11. HUMAN RIGHTS COMMISSION.**

**§5-11-10. Discriminatory practices; investigations, hearings, procedures and orders.**

1 Any individual claiming to be aggrieved by an alleged  
2 unlawful discriminatory practice shall make, sign and  
3 file with the commission a verified complaint, which  
4 shall state the name and address of the person, em-  
5 ployer, labor organization, employment agency, owner,  
6 real estate broker, real estate salesman or financial  
7 institution alleged to have committed the unlawful  
8 discriminatory practice complained of, and which shall  
9 set forth the particulars thereof and contain such other  
10 information as may be required by the commission's  
11 rules and regulations. The commission upon its own  
12 initiative, or the attorney general, shall, in like manner,

13 make, sign and file such complaint. Any employer,  
14 whose employees, or some of them, hinder or threaten  
15 to hinder compliance with the provisions of this article,  
16 shall file with the commission a verified complaint,  
17 asking for assistance by conciliation or other remedial  
18 action and, during such period of conciliation or other  
19 remedial action, no hearings, orders or other actions  
20 shall be held, made or taken by the commission against  
21 such employer. Any complaint filed pursuant to this  
22 article must be filed within three hundred sixty-five  
23 days after the alleged act of discrimination.

24 After the filing of any complaint, or whenever there  
25 is reason to believe that an unlawful discriminatory  
26 practice has been committed, the commission shall make  
27 a prompt investigation in connection therewith.

28 If it shall be determined after such investigation that  
29 no probable cause exists for substantiating the allega-  
30 tions of the complaint, the commission shall, within ten  
31 days from such determination, cause to be issued and  
32 served upon the complainant written notice of such  
33 determination, and the said complainant or his attorney  
34 may, within ten days after such service, file with the  
35 commission a written request for a meeting with the  
36 commission to show probable cause for substantiating  
37 the allegations of the complaint. If it shall be deter-  
38 mined after such investigation or meeting that probable  
39 cause exists for substantiating the allegations of the  
40 complaint, the commission shall immediately endeavor  
41 to eliminate the unlawful discriminatory practices  
42 complained of by conference, conciliation and persua-  
43 sion. The members of the commission and its staff shall  
44 not disclose what has transpired in the course of such  
45 endeavors: *Provided*, That the commission may publish  
46 the facts in the case of any complaint which has been  
47 dismissed, and the terms of conciliation when the  
48 complaint has been adjusted, without disclosing the  
49 identity of the parties involved.

50 In case of failure so to eliminate such practice or in  
51 advance thereof, if in the judgment of the commission  
52 circumstances so warrant, the commission shall cause to  
53 be issued and served a written notice, together with a

54 copy of such complaint as the same may have been  
55 amended, in the manner provided by law for the service  
56 of summons in civil actions, requiring the person,  
57 employer, labor organization, employment agency,  
58 owner, real estate broker, real estate salesman or  
59 financial institution named in such complaint, hereinaf-  
60 ter referred to as respondent, to answer the charges of  
61 such complaint at a hearing before the commission in  
62 the county where the respondent resides or transacts  
63 business at a time and place to be specified in such  
64 notice: *Provided*, That said written notice be served at  
65 least thirty days prior to the time set for the hearing.

66 The case in support of the complaint shall be pres-  
67 ented before the commission by one of its attorneys or  
68 agents. The respondent may file a written, verified  
69 answer to the complaint and appear at such hearing in  
70 person or otherwise, with or without counsel, and submit  
71 testimony and evidence. Except as provided in this  
72 article, all of the pertinent provisions of article five,  
73 chapter twenty-nine-a of this code shall apply to and  
74 govern the hearing and the administrative procedures  
75 in connection with and following such hearing, with like  
76 effect as if the provisions of said article five were set  
77 forth in extenso in this section.

78 If, after such hearing and consideration of all of the  
79 testimony, evidence and record in the case, the commis-  
80 sion shall find that a respondent has engaged in or is  
81 engaging in any unlawful discriminatory practice as  
82 defined in this article, the commission shall issue and  
83 cause to be served on such respondent an order to cease  
84 and desist from such unlawful discriminatory practice  
85 and to take such affirmative action, including, but not  
86 limited to, hiring, reinstatement or upgrading of  
87 employees, with or without back pay, admission or  
88 restoration to membership in any respondent labor  
89 organization, or the admission to full and equal enjoy-  
90 ment of the services, goods, facilities, or accommoda-  
91 tions offered by any respondent place of public accom-  
92 modation, and the sale, purchase, lease, rental or  
93 financial assistance to any complainant otherwise  
94 qualified for the housing accommodation or real

95 property, denied in violation of this article, as in the  
96 judgment of the commission, will effectuate the pur-  
97 poses of this article, and including a requirement for  
98 report of the manner of compliance. Such order shall be  
99 accompanied by findings of fact and conclusions of law  
100 as specified in section three, article five, chapter twenty-  
101 nine-a of this code.

102 If, after such hearing and consideration of all of the  
103 testimony, evidence and record in the case, the commis-  
104 sion shall find that a respondent has not engaged in such  
105 unlawful discriminatory practice, the commission shall  
106 state its findings of fact and conclusions of law as  
107 aforesaid and shall issue and cause to be served on the  
108 complainant an order dismissing the said complaint as  
109 to such respondent.

110 A copy of its order shall be delivered in all cases by  
111 the commission to the complainant, the respondent, the  
112 attorney general and to such other public officers as the  
113 commission may deem proper. Any such order shall not  
114 be enforceable except as provided in section eleven of  
115 this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled

*[Handwritten Signature]*  
.....  
Chairman Senate Committee

*[Handwritten Signature]*  
.....  
Ernest C. Moore  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*[Handwritten Signature]*  
.....  
Clerk of the Senate

*[Handwritten Signature]*  
.....  
Clerk of the House of Delegates

*[Handwritten Signature]*  
.....  
President of the Senate

*[Handwritten Signature]*  
.....  
Speaker of the House of Delegates

The within ..... this the .....  
day of ....., 1994.



.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/94

Time 9:43 am