



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB3092

by Rep. Avery Bourne

#### SYNOPSIS AS INTRODUCED:

775 ILCS 5/7A-102  
775 ILCS 5/7B-102

from Ch. 68, par. 7A-102  
from Ch. 68, par. 7B-102

Amends the Illinois Human Rights Act. In provisions governing the notice and response in a case involving types of charges other than those pertaining to real estate transactions, removes the requirement that a response be verified. Provides that the charging party and the respondent may each file a position statement and other materials with the Department of Human Rights regarding the charge of alleged discrimination within 60 days of receipt of the request by the Department (instead of "within 60 days of receipt of notice of the charge"). Provides that the Department may (instead of "shall") require the respondent to file a response to the allegations contained in the charge within 60 days of receipt of the notice of the charge. Provides that all allegations contained in the charge not timely denied by the respondent may (instead of "shall") be deemed admitted, unless the respondent states that it is without sufficient information to form a belief with respect to the allegation. Provides that within 30 days of receipt of the respondent's response, the complainant may file a reply to the response and may (instead of "shall") serve a copy of the reply on the respondent or the respondent's representative. Provides that a party may (instead of "shall have the right to") supplement the response or reply at any time that the investigation of the charge is pending. Makes similar changes in provisions governing the notice and response in other types of charges arising under the Act. Makes other changes. Effective immediately.

LRB100 05780 HEP 21441 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 Sections 7A-102 and 7B-102 as follows:

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

8 (A) Charge.

9 (1) Within 180 days after the date that a civil rights  
10 violation allegedly has been committed, a charge in writing  
11 under oath or affirmation may be filed with the Department  
12 by an aggrieved party or issued by the Department itself  
13 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 (3) Charges deemed filed with the Department pursuant  
19 to subsection (A-1) of this Section shall be deemed to be  
20 in compliance with this subsection.

21 (A-1) Equal Employment Opportunity Commission Charges.

22 (1) If a charge is filed with the Equal Employment  
23 Opportunity Commission (EEOC) within 180 days after the

1 date of the alleged civil rights violation, the charge  
2 shall be deemed filed with the Department on the date filed  
3 with the EEOC. If the EEOC is the governmental agency  
4 designated to investigate the charge first, the Department  
5 shall take no action until the EEOC makes a determination  
6 on the charge and after the complainant notifies the  
7 Department of the EEOC's determination. In such cases,  
8 after receiving notice from the EEOC that a charge was  
9 filed, the Department shall notify the parties that (i) a  
10 charge has been received by the EEOC and has been sent to  
11 the Department for dual filing purposes; (ii) the EEOC is  
12 the governmental agency responsible for investigating the  
13 charge and that the investigation shall be conducted  
14 pursuant to the rules and procedures adopted by the EEOC;  
15 (iii) it will take no action on the charge until the EEOC  
16 issues its determination; (iv) the complainant must submit  
17 a copy of the EEOC's determination within 30 days after  
18 service of the determination by the EEOC on complainant;  
19 and (v) that the time period to investigate the charge  
20 contained in subsection (G) of this Section is tolled from  
21 the date on which the charge is filed with the EEOC until  
22 the EEOC issues its determination.

23 (2) If the EEOC finds reasonable cause to believe that  
24 there has been a violation of federal law and if the  
25 Department is timely notified of the EEOC's findings by  
26 complainant, the Department shall notify complainant that

1 the Department has adopted the EEOC's determination of  
2 reasonable cause and that complainant has the right, within  
3 90 days after receipt of the Department's notice, to either  
4 file his or her own complaint with the Illinois Human  
5 Rights Commission or commence a civil action in the  
6 appropriate circuit court or other appropriate court of  
7 competent jurisdiction. The Department's notice to  
8 complainant that the Department has adopted the EEOC's  
9 determination of reasonable cause shall constitute the  
10 Department's Report for purposes of subparagraph (D) of  
11 this Section.

12 (3) For those charges alleging violations within the  
13 jurisdiction of both the EEOC and the Department and for  
14 which the EEOC either (i) does not issue a determination,  
15 but does issue the complainant a notice of a right to sue,  
16 including when the right to sue is issued at the request of  
17 the complainant, or (ii) determines that it is unable to  
18 establish that illegal discrimination has occurred and  
19 issues the complainant a right to sue notice, and if the  
20 Department is timely notified of the EEOC's determination  
21 by complainant, the Department shall notify the parties  
22 that the Department will adopt the EEOC's determination as  
23 a dismissal for lack of substantial evidence unless the  
24 complainant requests in writing within 35 days after  
25 receipt of the Department's notice that the Department  
26 review the EEOC's determination.

1           (a) If the complainant does not file a written  
2 request with the Department to review the EEOC's  
3 determination within 35 days after receipt of the  
4 Department's notice, the Department shall notify  
5 complainant that the decision of the EEOC has been  
6 adopted by the Department as a dismissal for lack of  
7 substantial evidence and that the complainant has the  
8 right, within 90 days after receipt of the Department's  
9 notice, to commence a civil action in the appropriate  
10 circuit court or other appropriate court of competent  
11 jurisdiction. The Department's notice to complainant  
12 that the Department has adopted the EEOC's  
13 determination shall constitute the Department's report  
14 for purposes of subparagraph (D) of this Section.

15           (b) If the complainant does file a written request  
16 with the Department to review the EEOC's  
17 determination, the Department shall review the EEOC's  
18 determination and any evidence obtained by the EEOC  
19 during its investigation. If, after reviewing the  
20 EEOC's determination and any evidence obtained by the  
21 EEOC, the Department determines there is no need for  
22 further investigation of the charge, the Department  
23 shall issue a report and the Director shall determine  
24 whether there is substantial evidence that the alleged  
25 civil rights violation has been committed pursuant to  
26 subsection (D) of Section 7A-102. If, after reviewing

1 the EEOC's determination and any evidence obtained by  
2 the EEOC, the Department determines there is a need for  
3 further investigation of the charge, the Department  
4 may conduct any further investigation it deems  
5 necessary. After reviewing the EEOC's determination,  
6 the evidence obtained by the EEOC, and any additional  
7 investigation conducted by the Department, the  
8 Department shall issue a report and the Director shall  
9 determine whether there is substantial evidence that  
10 the alleged civil rights violation has been committed  
11 pursuant to subsection (D) of Section 7A-102 of this  
12 Act.

13 (4) Pursuant to this Section, if the EEOC dismisses the  
14 charge or a portion of the charge of discrimination  
15 because, under federal law, the EEOC lacks jurisdiction  
16 over the charge, and if, under this Act, the Department has  
17 jurisdiction over the charge of discrimination, the  
18 Department shall investigate the charge or portion of the  
19 charge dismissed by the EEOC for lack of jurisdiction  
20 pursuant to subsections (A), (A-1), (B), (B-1), (C), (D),  
21 (E), (F), (G), (H), (I), (J), and (K) of Section 7A-102 of  
22 this Act.

23 (5) The time limit set out in subsection (G) of this  
24 Section is tolled from the date on which the charge is  
25 filed with the EEOC to the date on which the EEOC issues  
26 its determination.

1 (B) Notice and Response to Charge. The Department shall,  
2 within 10 days of the date on which the charge was filed, serve  
3 a copy of the charge on the respondent. This period shall not  
4 be construed to be jurisdictional. The charging party and the  
5 respondent may each file a position statement and other  
6 materials with the Department regarding the charge of alleged  
7 discrimination within 60 days of receipt of the request by the  
8 Department ~~notice of the charge~~. The position statements and  
9 other materials filed shall remain confidential unless  
10 otherwise agreed to by the party providing the information and  
11 shall not be served on or made available to the other party  
12 during pendency of a charge with the Department. The Department  
13 ~~may shall~~ require the respondent to file a ~~verified~~ response to  
14 the allegations contained in the charge within 60 days of  
15 receipt of the request by the Department ~~notice of the charge~~.  
16 The respondent shall serve a copy of its response on the  
17 complainant or his or her representative. All allegations  
18 contained in the charge not timely denied by the respondent ~~may~~  
19 ~~shall~~ be deemed admitted, unless the respondent states that it  
20 is without sufficient information to form a belief with respect  
21 to such allegation. The Department may issue a notice of  
22 default directed to any respondent who fails to file a ~~verified~~  
23 response to a charge within 60 days of receipt of the request  
24 by the Department ~~notice of the charge~~, unless the respondent  
25 can demonstrate good cause as to why such notice should not  
26 issue. The term "good cause" shall be defined by rule

1 promulgated by the Department. Within 30 days of receipt of the  
2 respondent's response, the complainant may file a reply to said  
3 response and may ~~shall~~ serve a copy of said reply on the  
4 respondent or his or her representative. A party may ~~shall have~~  
5 ~~the right to~~ supplement his or her response or reply at any  
6 time that the investigation of the charge is pending. The  
7 Department shall, within 10 days of the date on which the  
8 charge was filed, and again no later than 335 days thereafter,  
9 send by certified or registered mail written notice to the  
10 complainant and to the respondent informing the complainant of  
11 the complainant's right to either file a complaint with the  
12 Human Rights Commission or commence a civil action in the  
13 appropriate circuit court under subparagraph (2) of paragraph  
14 (G), including in such notice the dates within which the  
15 complainant may exercise this right. In the notice the  
16 Department shall notify the complainant that the charge of  
17 civil rights violation will be dismissed with prejudice and  
18 with no right to further proceed if a written complaint is not  
19 timely filed with the Commission or with the appropriate  
20 circuit court by the complainant pursuant to subparagraph (2)  
21 of paragraph (G) or by the Department pursuant to subparagraph  
22 (1) of paragraph (G).

23 (B-1) Mediation. The complainant and respondent may agree  
24 to voluntarily submit the charge to mediation without waiving  
25 any rights that are otherwise available to either party  
26 pursuant to this Act and without incurring any obligation to



1 accept the result of the mediation process. Nothing occurring  
2 in mediation shall be disclosed by the Department or admissible  
3 in evidence in any subsequent proceeding unless the complainant  
4 and the respondent agree in writing that such disclosure be  
5 made.

6 (C) Investigation.

7 (1) After the respondent has been notified, the  
8 Department shall conduct a full investigation of the  
9 allegations set forth in the charge.

10 (2) The Director or his or her designated  
11 representatives shall have authority to request any member  
12 of the Commission to issue subpoenas to compel the  
13 attendance of a witness or the production for examination  
14 of any books, records or documents whatsoever.

15 (3) If any witness whose testimony is required for any  
16 investigation resides outside the State, or through  
17 illness or any other good cause as determined by the  
18 Director is unable to be interviewed by the investigator or  
19 appear at a fact finding conference, his or her testimony  
20 or deposition may be taken, within or without the State, in  
21 the same manner as is provided for in the taking of  
22 depositions in civil cases in circuit courts.

23 (4) Upon reasonable notice to the complainant and the  
24 respondent, the Department shall conduct a fact finding  
25 conference, unless prior to 365 days after the date on  
26 which the charge was filed the Director has determined

1           whether there is substantial evidence that the alleged  
2           civil rights violation has been committed, the charge has  
3           been dismissed for lack of jurisdiction, or the parties  
4           voluntarily and in writing agree to waive the fact finding  
5           conference. Any party's failure to attend the conference  
6           without good cause shall result in dismissal or default.  
7           The term "good cause" shall be defined by rule promulgated  
8           by the Department. A notice of dismissal or default shall  
9           be issued by the Director. The notice of default issued by  
10          the Director shall notify the respondent that a request for  
11          review may be filed in writing with the Commission within  
12          30 days of receipt of notice of default. The notice of  
13          dismissal issued by the Director shall give the complainant  
14          notice of his or her right to seek review of the dismissal  
15          before the Human Rights Commission or commence a civil  
16          action in the appropriate circuit court. If the complainant  
17          chooses to have the Human Rights Commission review the  
18          dismissal order, he or she shall file a request for review  
19          with the Commission within 90 days after receipt of the  
20          Director's notice. If the complainant chooses to file a  
21          request for review with the Commission, he or she may not  
22          later commence a civil action in a circuit court. If the  
23          complainant chooses to commence a civil action in a circuit  
24          court, he or she must do so within 90 days after receipt of  
25          the Director's notice.

26          (D) Report.

1           (1) Each charge shall be the subject of a report to the  
2 Director. The report shall be a confidential document  
3 subject to review by the Director, authorized Department  
4 employees, the parties, and, where indicated by this Act,  
5 members of the Commission or their designated hearing  
6 officers.

7           (2) Upon review of the report, the Director shall  
8 determine whether there is substantial evidence that the  
9 alleged civil rights violation has been committed. The  
10 determination of substantial evidence is limited to  
11 determining the need for further consideration of the  
12 charge pursuant to this Act and includes, but is not  
13 limited to, findings of fact and conclusions, as well as  
14 the reasons for the determinations on all material issues.  
15 Substantial evidence is evidence which a reasonable mind  
16 accepts as sufficient to support a particular conclusion  
17 and which consists of more than a mere scintilla but may be  
18 somewhat less than a preponderance.

19           (3) If the Director determines that there is no  
20 substantial evidence, the charge shall be dismissed by  
21 order of the Director and the Director shall give the  
22 complainant notice of his or her right to seek review of  
23 the dismissal order before the Commission or commence a  
24 civil action in the appropriate circuit court. If the  
25 complainant chooses to have the Human Rights Commission  
26 review the dismissal order, he or she shall file a request

1 for review with the Commission within 90 days after receipt  
2 of the Director's notice. If the complainant chooses to  
3 file a request for review with the Commission, he or she  
4 may not later commence a civil action in a circuit court.  
5 If the complainant chooses to commence a civil action in a  
6 circuit court, he or she must do so within 90 days after  
7 receipt of the Director's notice.

8 (4) If the Director determines that there is  
9 substantial evidence, he or she shall notify the  
10 complainant and respondent of that determination. The  
11 Director shall also notify the parties that the complainant  
12 has the right to either commence a civil action in the  
13 appropriate circuit court or request that the Department of  
14 Human Rights file a complaint with the Human Rights  
15 Commission on his or her behalf. Any such complaint shall  
16 be filed within 90 days after receipt of the Director's  
17 notice. If the complainant chooses to have the Department  
18 file a complaint with the Human Rights Commission on his or  
19 her behalf, the complainant must, within 30 days after  
20 receipt of the Director's notice, request in writing that  
21 the Department file the complaint. If the complainant  
22 timely requests that the Department file the complaint, the  
23 Department shall file the complaint on his or her behalf.  
24 If the complainant fails to timely request that the  
25 Department file the complaint, the complainant may file his  
26 or her complaint with the Commission or commence a civil

1 action in the appropriate circuit court. If the complainant  
2 files a complaint with the Human Rights Commission, the  
3 complainant shall give notice to the Department of the  
4 filing of the complaint with the Human Rights Commission.

5 (E) Conciliation.

6 (1) When there is a finding of substantial evidence,  
7 the Department may designate a Department employee who is  
8 an attorney licensed to practice in Illinois to endeavor to  
9 eliminate the effect of the alleged civil rights violation  
10 and to prevent its repetition by means of conference and  
11 conciliation.

12 (2) When the Department determines that a formal  
13 conciliation conference is necessary, the complainant and  
14 respondent shall be notified of the time and place of the  
15 conference by registered or certified mail at least 10 days  
16 prior thereto and either or both parties shall appear at  
17 the conference in person or by attorney.

18 (3) The place fixed for the conference shall be within  
19 35 miles of the place where the civil rights violation is  
20 alleged to have been committed.

21 (4) Nothing occurring at the conference shall be  
22 disclosed by the Department unless the complainant and  
23 respondent agree in writing that such disclosure be made.

24 (5) The Department's efforts to conciliate the matter  
25 shall not stay or extend the time for filing the complaint  
26 with the Commission or the circuit court.

1 (F) Complaint.

2 (1) When the complainant requests that the Department  
3 file a complaint with the Commission on his or her behalf,  
4 the Department shall prepare a written complaint, under  
5 oath or affirmation, stating the nature of the civil rights  
6 violation substantially as alleged in the charge  
7 previously filed and the relief sought on behalf of the  
8 aggrieved party. The Department shall file the complaint  
9 with the Commission.

10 (2) If the complainant chooses to commence a civil  
11 action in a circuit court, he or she must do so in the  
12 circuit court in the county wherein the civil rights  
13 violation was allegedly committed. The form of the  
14 complaint in any such civil action shall be in accordance  
15 with the Illinois Code of Civil Procedure.

16 (G) Time Limit.

17 (1) When a charge of a civil rights violation has been  
18 properly filed, the Department, within 365 days thereof or  
19 within any extension of that period agreed to in writing by  
20 all parties, shall issue its report as required by  
21 subparagraph (D). Any such report shall be duly served upon  
22 both the complainant and the respondent.

23 (2) If the Department has not issued its report within  
24 365 days after the charge is filed, or any such longer  
25 period agreed to in writing by all the parties, the  
26 complainant shall have 90 days to either file his or her

1 own complaint with the Human Rights Commission or commence  
2 a civil action in the appropriate circuit court. If the  
3 complainant files a complaint with the Commission, the form  
4 of the complaint shall be in accordance with the provisions  
5 of paragraph (F) (1). If the complainant commences a civil  
6 action in a circuit court, the form of the complaint shall  
7 be in accordance with the Illinois Code of Civil Procedure.  
8 The aggrieved party shall notify the Department that a  
9 complaint has been filed and shall serve a copy of the  
10 complaint on the Department on the same date that the  
11 complaint is filed with the Commission or in circuit court.  
12 If the complainant files a complaint with the Commission,  
13 he or she may not later commence a civil action in circuit  
14 court.

15 (3) If an aggrieved party files a complaint with the  
16 Human Rights Commission or commences a civil action in  
17 circuit court pursuant to paragraph (2) of this subsection,  
18 or if the time period for filing a complaint has expired,  
19 the Department shall immediately cease its investigation  
20 and dismiss the charge of civil rights violation. Any final  
21 order entered by the Commission under this Section is  
22 appealable in accordance with paragraph (B) (1) of Section  
23 8-111. Failure to immediately cease an investigation and  
24 dismiss the charge of civil rights violation as provided in  
25 this paragraph (3) constitutes grounds for entry of an  
26 order by the circuit court permanently enjoining the

1 investigation. The Department may also be liable for any  
2 costs and other damages incurred by the respondent as a  
3 result of the action of the Department.

4 (4) The Department shall stay any administrative  
5 proceedings under this Section after the filing of a civil  
6 action by or on behalf of the aggrieved party under any  
7 federal or State law seeking relief with respect to the  
8 alleged civil rights violation.

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

11 (I) This amendatory Act of 1996 applies to causes of action  
12 filed on or after January 1, 1996.

13 (J) The changes made to this Section by Public Act 95-243  
14 apply to charges filed on or after the effective date of those  
15 changes.

16 (K) The changes made to this Section by this amendatory Act  
17 of the 96th General Assembly apply to charges filed on or after  
18 the effective date of those changes.

19 (Source: P.A. 96-876, eff. 2-2-10; 97-22, eff. 1-1-12; 97-596,  
20 eff. 8-26-11; 97-813, eff. 7-13-12.)

21 (775 ILCS 5/7B-102) (from Ch. 68, par. 7B-102)

22 Sec. 7B-102. Procedures.

23 (A) Charge.

24 (1) Within one year after the date that a civil rights  
25 violation allegedly has been committed or terminated, a



1 charge in writing under oath or affirmation may be filed  
2 with the Department by an aggrieved party or issued by the  
3 Department itself under the signature of the Director.

4 (2) The charge shall be in such detail as to  
5 substantially apprise any party properly concerned as to  
6 the time, place, and facts surrounding the alleged civil  
7 rights violation.

8 (B) Notice and Response to Charge.

9 (1) The Department shall serve notice upon the  
10 aggrieved party acknowledging such charge and advising the  
11 aggrieved party of the time limits and choice of forums  
12 provided under this Act. The Department shall, within 10  
13 days of the date on which the charge was filed or the  
14 identification of an additional respondent under paragraph  
15 (2) of this subsection, serve on the respondent a copy of  
16 the charge along with a notice identifying the alleged  
17 civil rights violation and advising the respondent of the  
18 procedural rights and obligations of respondents under  
19 this Act and may ~~shall~~ require the respondent to file a  
20 ~~verified~~ response to the allegations contained in the  
21 charge within 30 days of receipt of the request by the  
22 Department. The respondent shall serve a copy of its  
23 response on the complainant or his or her representative.  
24 All allegations contained in the charge not timely denied  
25 by the respondent may ~~shall~~ be deemed admitted, unless the  
26 respondent states that it is without sufficient

1 information to form a belief with respect to such  
2 allegation. The Department may issue a notice of default  
3 directed to any respondent who fails to file a ~~verified~~  
4 response to a charge within 30 days of the receipt of the  
5 request by the Department ~~date on which the charge was~~  
6 ~~filed~~, unless the respondent can demonstrate good cause as  
7 to why such notice should not issue. The term "good cause"  
8 shall be defined by rule promulgated by the Department.  
9 Within 10 days of the date he or she receives the  
10 respondent's response, the complainant may file his or her  
11 reply to said response. If he or she chooses to file a  
12 reply, the complainant may ~~shall~~ serve a copy of said reply  
13 on the respondent or his or her representative. A party may  
14 ~~shall have the right to~~ supplement his or her response or  
15 reply at any time that the investigation of the charge is  
16 pending.

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

26 (C) Investigation.

1           (1) The Department shall conduct a full investigation  
2 of the allegations set forth in the charge and complete  
3 such investigation within 100 days after the filing of the  
4 charge, unless it is impracticable to do so. The  
5 Department's failure to complete the investigation within  
6 100 days after the proper filing of the charge does not  
7 deprive the Department of jurisdiction over the charge.

8           (2) If the Department is unable to complete the  
9 investigation within 100 days after the charge is filed,  
10 the Department shall notify the complainant and respondent  
11 in writing of the reasons for not doing so.

12           (3) The Director or his or her designated  
13 representative shall have authority to request any member  
14 of the Commission to issue subpoenas to compel the  
15 attendance of a witness or the production for examination  
16 of any books, records or documents whatsoever.

17           (4) If any witness whose testimony is required for any  
18 investigation resides outside the State, or through  
19 illness or any other good cause as determined by the  
20 Director is unable to be interviewed by the investigator or  
21 appear at a fact finding conference, his or her testimony  
22 or deposition may be taken, within or without the State, in  
23 the same manner as provided for in the taking of  
24 depositions in civil cases in circuit courts.

25           (5) Upon reasonable notice to the complainant and the  
26 respondent, the Department shall conduct a fact finding

1 conference, unless prior to 100 days from the date on which  
2 the charge was filed, the Director has determined whether  
3 there is substantial evidence that the alleged civil rights  
4 violation has been committed or the parties voluntarily and  
5 in writing agree to waive the fact finding conference. A  
6 party's failure to attend the conference without good cause  
7 may result in dismissal or default. A notice of dismissal  
8 or default shall be issued by the Director and shall notify  
9 the relevant party that a request for review may be filed  
10 in writing with the Commission within 30 days of receipt of  
11 notice of dismissal or default.

12 (D) Report.

13 (1) Each investigated charge shall be the subject of a  
14 report to the Director. The report shall be a confidential  
15 document subject to review by the Director, authorized  
16 Department employees, the parties, and, where indicated by  
17 this Act, members of the Commission or their designated  
18 hearing officers.

19 The report shall contain:

20 (a) the names and dates of contacts with witnesses;

21 (b) a summary and the date of correspondence and  
22 other contacts with the aggrieved party and the  
23 respondent;

24 (c) a summary description of other pertinent  
25 records;

26 (d) a summary of witness statements; and

1 (e) answers to questionnaires.

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

4 (2) Upon review of the report and within 100 days of  
5 the filing of the charge, unless it is impracticable to do  
6 so, the Director shall determine whether there is  
7 substantial evidence that the alleged civil rights  
8 violation has been committed or is about to be committed.  
9 If the Director is unable to make the determination within  
10 100 days after the filing of the charge, the Director shall  
11 notify the complainant and respondent in writing of the  
12 reasons for not doing so. The Director's failure to make  
13 the determination within 100 days after the proper filing  
14 of the charge does not deprive the Department of  
15 jurisdiction over the charge.

16 (a) If the Director determines that there is no  
17 substantial evidence, the charge shall be dismissed  
18 and the aggrieved party notified that he or she may  
19 seek review of the dismissal order before the  
20 Commission. The aggrieved party shall have 90 days from  
21 receipt of notice to file a request for review by the  
22 Commission. The Director shall make public disclosure  
23 of each such dismissal.

24 (b) If the Director determines that there is  
25 substantial evidence, he or she shall immediately  
26 issue a complaint on behalf of the aggrieved party

1           pursuant to subsection (F).

2           (E) Conciliation.

3           (1) During the period beginning with the filing of  
4 charge and ending with the filing of a complaint or a  
5 dismissal by the Department, the Department shall, to the  
6 extent feasible, engage in conciliation with respect to  
7 such charge.

8           When the Department determines that a formal  
9 conciliation conference is feasible, the aggrieved party  
10 and respondent shall be notified of the time and place of  
11 the conference by registered or certified mail at least 7  
12 days prior thereto and either or both parties shall appear  
13 at the conference in person or by attorney.

14           (2) The place fixed for the conference shall be within  
15 35 miles of the place where the civil rights violation is  
16 alleged to have been committed.

17           (3) Nothing occurring at the conference shall be made  
18 public or used as evidence in a subsequent proceeding for  
19 the purpose of proving a violation under this Act unless  
20 the complainant and respondent agree in writing that such  
21 disclosure be made.

22           (4) A conciliation agreement arising out of such  
23 conciliation shall be an agreement between the respondent  
24 and the complainant, and shall be subject to approval by  
25 the Department and Commission.

26           (5) A conciliation agreement may provide for binding

1 arbitration of the dispute arising from the charge. Any  
2 such arbitration that results from a conciliation  
3 agreement may award appropriate relief, including monetary  
4 relief.

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

9 (F) Complaint.

10 (1) When there is a failure to settle or adjust any  
11 charge through a conciliation conference and the charge is  
12 not dismissed, the Department shall prepare a written  
13 complaint, under oath or affirmation, stating the nature of  
14 the civil rights violation and the relief sought on behalf  
15 of the aggrieved party. Such complaint shall be based on  
16 the final investigation report and need not be limited to  
17 the facts or grounds alleged in the charge filed under  
18 subsection (A).

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

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

25 (G) Time Limit.

26 (1) When a charge of a civil rights violation has been

1 properly filed, the Department, within 100 days thereof,  
2 unless it is impracticable to do so, shall either issue and  
3 file a complaint in the manner and form set forth in this  
4 Section or shall order that no complaint be issued. Any  
5 such order shall be duly served upon both the aggrieved  
6 party and the respondent. The Department's failure to  
7 either issue and file a complaint or order that no  
8 complaint be issued within 100 days after the proper filing  
9 of the charge does not deprive the Department of  
10 jurisdiction over the charge.

11 (2) The Director shall make available to the aggrieved  
12 party and the respondent, at any time, upon request  
13 following completion of the Department's investigation,  
14 information derived from an investigation and any final  
15 investigative report relating to that investigation.

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

18 (I) The changes made to this Section by Public Act 95-243  
19 apply to charges filed on or after the effective date of those  
20 changes.

21 (J) The changes made to this Section by this amendatory Act  
22 of the 96th General Assembly apply to charges filed on or after  
23 the effective date of those changes.

24 (Source: P.A. 96-876, eff. 2-2-10; 97-22, eff. 1-1-12.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.