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COMMITTEE REPORT

March 11, 2020

**H. 5072**

Introduced by Reps. Funderburk, Norrell, W. Newton, Collins, Cobb‑Hunter and Erickson

S. Printed 3/11/20--H.

Read the first time January 29, 2020.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 5072) to amend Section 1‑13‑40, Code of Laws of South Carolina, 1976, relating to the South Carolina Commission on Human Affairs, so as to delete a, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

PETER M. MCCOY, JR. for Committee.

**A** **BILL**

TO AMEND SECTION 1‑13‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA COMMISSION ON HUMAN AFFAIRS, SO AS TO DELETE A DUPLICITOUS REPORTING REQUIREMENT; TO AMEND SECTION 1‑13‑70, RELATING TO THE POWERS OF THE COMMISSION, SO AS TO PROVIDE THAT THE COMMISSION MAY REQUIRE REPORTS FROM ALL EMPLOYERS; TO AMEND SECTION 1‑13‑90, RELATING TO THE DUTIES OF THE COMMISSION, SO AS TO PROVIDE A PROCEDURE FOR A FINDING OF AN UNLAWFUL DISCRIMINATORY PRACTICE AND TO EXTEND THE TIME BY WHICH A COMPLAINANT MAY BRING AN ACTION IN CIRCUIT COURT; TO AMEND SECTION 31‑21‑120, RELATING TO COMPLAINTS INVOLVING DISCRIMINATORY HOUSING PRACTICES, SO AS TO DELETE A REQUIREMENT THAT THE COMPLAINT AND ANSWER BE VERIFIED; AND TO AMEND SECTION 31‑21‑140, RELATING TO CIVIL ACTIONS FOR DISCRIMINATORY HOUSING PRACTICES, SO AS TO PROVIDE CERTAIN FILING REQUIREMENTS FOR INDIVIDUALS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 1‑13‑40(j) of the 1976 Code is amended to read:

“~~(j)~~ ~~The Commission shall render each year to the Governor and to the General Assembly a written report of its activities and of its recommendations.~~”

SECTION 2. Section 1‑13‑70(i) of the 1976 Code is amended to read:

“(i) To ~~require~~ request from any ~~state agency or department or local subdivisions of a state agency or department~~ employer the production of documents or witnesses ~~such reports and information~~ at such times as it may deem reasonably necessary to effectuate the investigative purposes of ~~this chapter~~ Section 1‑13‑90(c) and (d) prior to utilizing the procedures set forth in Sections 1‑13‑90(c)(4) and (d)(2) to obtain such documents or witnesses.”

SECTION 3. A. Section 1‑13‑90(c)(16) of the 1976 Code is amended to read:

“(16) If upon all the evidence at the hearing the panel shall find that the respondent has engaged in any unlawful discriminatory practice, it shall state its findings of fact and serve upon the respondent in the name of the commission an opinion and order requiring ~~that such unlawful discriminatory practice be discontinued and requiring such other action including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay to the persons aggrieved by such practice as, in the judgment of the panel, will effectuate the purposes of this chapter. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. The Commission may retain jurisdiction of any such case until it is satisfied of compliance by the respondent with its order~~ appropriate action and relief to the persons aggrieved, pursuant to substantively analogous federal laws, including Title VII of the Civil Rights Act of 1964, as amended, Americans with Disabilities Act of 1990, as amended, and the Age Discrimination in Employment Act of 1967, as amended. Further, the panel may award such other remedies as are necessary and proper to promote the public interest and eliminate the discrimination set forth in the order or proven at the hearing including, but not limited to, civil penalties, in an amount deemed appropriate by the panel, and costs for the commission in bringing the action. A copy of the order must be delivered to the respondent, the complainant, and to such public officers and persons as the commission deems proper.”

B. Section 1‑13‑90(d)(6) of the 1976 Code is amended to read:

“(6) If a charge filed with the commission by a complainant pursuant to this chapter is dismissed by the commission, or if within one hundred eighty days from the filing of the charge the commission has not filed an action under this chapter or entered into a conciliation agreement to which the complainant is a party, the complainant may bring an action in equity against the respondent in circuit court. The action must be brought within one year from the date of the violation alleged, or within one hundred twenty days from the date the complainant’s charge is dismissed, whichever occurs ~~earlier~~ later, except that this period may be extended by written consent of the respondent.”

SECTION 4. Section 31‑21‑120(B) of the 1976 Code is amended to read:

“(B) A complaint under subsection (A) must be filed within one hundred eighty days after the alleged discriminatory housing practice occurred. The complaint must be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. A complaint may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him, not later than ten days after receipt of notice, and may be amended reasonably and fairly by the respondent at any time. ~~Both complaint and answer must be verified.~~”

SECTION 5. Section 31‑21‑140(A) of the 1976 Code is amended to read:

“(A) A civil action must be commenced by an individual within one year after the alleged discriminatory housing practice has occurred. ~~However~~ This limitation does not apply to matters filed by the commission pursuant to Section 31‑21‑130(C). Additionally, the court shall continue a civil case brought pursuant to this section from time to time before bringing it to trial if the court believes that the conciliation efforts of the commission or local agency are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the commission or to the local agency and which practice forms the basis for the action in court. Any sale, encumbrance, or rental consummated before the issuance of any court order issued under the authority of this chapter and involving a bona fide purchaser, encumbrances, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this chapter are not affected. A civil action may be commenced by an aggrieved person whether or not a complaint has been filed with the commission.”

SECTION 6. This act takes effect upon approval by the Governor.

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