

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

1

HOUSE BILL 685

Short Title: Human Relations Council Change.

(Public)

---

Sponsors: Representatives Stamey; and H. Hunter.

---

Referred to: Commerce.

---

March 20, 1989

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE NAME OF THE NORTH CAROLINA HUMAN  
RELATIONS COUNCIL TO THE NORTH CAROLINA HUMAN RELATIONS  
COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Part 9 of Article 9 of Chapter 143B of the General Statutes reads  
as rewritten:

"Part 9. North Carolina Human Relations ~~Council~~Commission.

**"§ 143B-391. North Carolina Human Relations ~~Council~~Commission  
– creation; powers and duties.**

There is hereby created the North Carolina Human Relations ~~Council~~Commission  
of the Department of Administration. The North Carolina Human Relations ~~Council~~  
Commission shall have the following functions and duties:

- (1) To study problems concerning human relations;
- (2) To promote equality of opportunity for all citizens;
- (3) To promote understanding, respect, and goodwill among all citizens;
- (4) To provide channels of communication among the races;
- (5) To encourage the employment of qualified people without regard to race;
- (6) To encourage youths to become better trained and qualified for employment;
- (7) To receive on behalf of the Department of Administration and to recommend expenditure of gifts and grants from public and private donors;

- 1 (8) To enlist the cooperation and assistance of all State and local  
 2 government officials in the attainment of the objectives of the  
 3 ~~Council~~commission;
- 4 (9) To assist local good neighborhood councils and biracial human  
 5 relations committees in promoting activities related to the functions of  
 6 the ~~Council~~commission enumerated above;
- 7 (10) To advise the Secretary of Administration upon any matter the  
 8 Secretary may refer to it; and
- 9 (11) To administer the provisions of the State Fair Housing Act as outlined  
 10 in Chapter 41A of the General Statutes.

11 **"§ 143B-392. North Carolina Human Relations ~~Council~~Commission – members;  
 12 selection; quorum; compensation.**

13 (a) The Human Relations ~~Council~~Commission of the Department of  
 14 Administration shall consist of 20 members. The Governor shall appoint one member  
 15 from each of the 11 congressional districts, plus five members at large, including the  
 16 chairperson. The Speaker of the North Carolina House of Representatives shall appoint  
 17 two members to the ~~council~~commission. The Lieutenant Governor shall appoint two  
 18 members to the ~~council~~commission. The terms of four of the members appointed by the  
 19 Governor shall expire June 30, 1988. The terms of four of the members appointed by  
 20 the Governor shall expire June 30, 1987. The terms of four of the members appointed  
 21 by the Governor shall expire June 30, 1986. The terms of four of the members  
 22 appointed by the Governor shall expire June 30, 1985. The terms of the members  
 23 appointed by the Speaker of the North Carolina House of Representatives shall expire  
 24 June 30, 1986. The terms of the members appointed by the Lieutenant Governor shall  
 25 expire June 30, 1986. At the end of the respective terms of office of the initial members  
 26 of the ~~council~~commission, the appointment of their successors shall be for terms of four  
 27 years. No member of the commission shall serve more than two consecutive terms. A  
 28 member having served two consecutive terms shall be eligible for reappointment one  
 29 year after the expiration of his second term. Any appointment to fill a vacancy on the  
 30 ~~council~~commission created by the resignation, dismissal, death, or disability of a  
 31 member shall be filled in the manner of the original appointment for the unexpired term.

32 (b) Members of the ~~council~~commission shall receive per diem and necessary  
 33 travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

34 (c) A majority of the ~~council~~commission shall constitute a quorum for the  
 35 transaction of business.

36 (d) All clerical and support services required by the ~~council~~commission shall be  
 37 supplied by the Secretary of the Department of Administration."

38 Sec. 2. G.S 41A-3 reads as rewritten:

39 **"§ 41A-3. Definitions.**

40 For the purposes of this Chapter, the following definitions apply:

- 41 (1) The '~~Council~~Commission' means the North Carolina Human  
 42 Relations ~~Council~~Commission;
- 43 (2) 'Family' includes a single individual;

- 1 (3) 'Financial institution' means any banking corporation or trust  
 2 company, savings and loan association, credit union, insurance  
 3 company, or related corporation, partnership, foundation, or other  
 4 institution engaged primarily in lending or investing funds;
- 5 (4) 'Housing accommodation' means any improved or unimproved real  
 6 property, or part thereof, which is used or occupied, or is intended,  
 7 arranged, or designed to be used or occupied, as the home or residence  
 8 of one or more individuals;
- 9 (5) 'Person' means any individual, association, corporation, political  
 10 subdivision, partnership, labor union, legal representative, mutual  
 11 company, joint stock company, trust, trustee in bankruptcy,  
 12 unincorporated organization, or other legal or commercial entity, the  
 13 State, or governmental entity or agency;
- 14 (6) 'Real estate broker or salesman' means a person, whether licensed or  
 15 not, who, for or with the expectation of receiving a consideration, lists,  
 16 sells, purchases, exchanges, rents, or leases real property, or who  
 17 negotiates or attempts to negotiate any of these activities, or who holds  
 18 himself out as engaged in these activities, or who negotiates or  
 19 attempts to negotiate a loan secured or to be secured by mortgage or  
 20 other encumbrance upon real property, or who is engaged in the  
 21 business of listing real property in a publication; or a person employed  
 22 by or acting on behalf of any of these persons;
- 23 (7) 'Real estate transaction' means the sale, exchange, rental, or lease of  
 24 real property;
- 25 (8) 'Real property' means a building, structure, real estate, land, tenement,  
 26 leasehold, interest in real estate cooperatives, condominium, and  
 27 hereditament, corporeal and incorporeal, or any interest therein."

28 Sec. 3. G.S. 41A-7 reads as rewritten:

29 **"§ 41A-7. Enforcement.**

30 (a) Any person who claims to have been injured by an unlawful discriminatory  
 31 housing practice or who reasonably believes that he will be irrevocably injured by an  
 32 unlawful discriminatory housing practice may file a complaint with the North Carolina  
 33 Human Relations ~~Council~~Commission. Complaints shall be in writing, shall state the  
 34 facts upon which the allegation of an unlawful discriminatory housing practice is based,  
 35 and shall contain such other information and be in such form as the ~~Council~~commission  
 36 requires. ~~Council~~commission employees shall assist complainants in reducing  
 37 complaints to writing and shall assist in setting forth the information in the complaint as  
 38 may be required by the ~~Council~~commission. Within 10 days after receipt of the  
 39 complaint, the Director of the ~~Council~~commission shall furnish a copy of the complaint  
 40 to the person who allegedly committed or is about to commit the unlawful  
 41 discriminatory housing practice.

42 (b) A complaint under subsection (a) shall be filed within 180 days after the  
 43 alleged unlawful discriminatory housing practice occurred. A respondent may file an  
 44 answer to the complaint against him within 10 days after receiving a copy of the

1 complaint. With the leave of the ~~Council~~commission, which shall be granted whenever it  
2 would be reasonable and fair to do so, the complaint and the answer may be amended at  
3 any time. Complaints and answers shall be verified.

4 (c) Whenever another agency of the State or any other unit of government of the  
5 State has jurisdiction over the subject matter of any complaint filed under this section,  
6 and such agency or unit of government has legal authority equivalent to or greater than  
7 the authority under this Chapter to investigate or act upon the complaint, the ~~Council~~  
8 commission shall be divested of jurisdiction over such complaint. The ~~Council~~  
9 commission shall, within 30 days, notify the agency or unit of government of the  
10 apparent unlawful discriminatory housing practice, and request that the complaint be  
11 investigated in accordance with such authority.

12 (d) Complaints may be resolved at any time by informal conference,  
13 conciliation, or persuasion. Nothing said or done in the course of such informal  
14 procedure may be made public by the ~~Council-commission~~ or used as evidence in a  
15 subsequent proceeding under this Chapter without the written consent of the person  
16 concerned.

17 (e) Upon receipt of a complaint, the ~~Council-commission~~ shall investigate the  
18 complaint to ascertain the facts relating to the alleged unlawful discriminatory housing  
19 practice. If the complaint is not resolved before the investigation is complete, upon  
20 completion of the investigation, the ~~Council-commission~~ shall determine whether or not  
21 there are reasonable grounds to believe that an unlawful discriminatory housing practice  
22 has occurred. The ~~Council-commission~~ shall make a determination within 90 days after  
23 receiving the complaint, unless the ~~Council-commission~~ determines that good cause  
24 exists for further delay.

25 (f) If the ~~Council-commission~~ finds no reasonable ground to believe that an  
26 unlawful discriminatory housing practice has occurred or is about to occur it shall  
27 dismiss the complaint and issue to the complainant a right-to-sue letter which will  
28 enable him to bring a civil action in superior court.

29 (g) If the ~~Council-commission~~ finds reasonable grounds to believe that an  
30 unlawful discriminatory housing practice has occurred or is about to occur it shall  
31 proceed to try to eliminate or correct the discriminatory housing practice by informal  
32 conference, conciliation, or persuasion.

33 (h) If the ~~Council-commission~~ is unable to resolve the alleged unlawful  
34 discriminatory housing practice it may declare that conciliation efforts have failed.  
35 Upon making such a declaration, the ~~Council-commission~~ may:

- 36 (1) Dismiss the complaint and issue to the complainant a right-to- sue  
37 letter which will enable him to bring a civil action in superior court; or
- 38 (2) Commence a civil action in superior court, in its own name, or in its  
39 own name on behalf of the complainant. In such an action, the ~~Council~~  
40 commission shall be represented by an attorney employed by the  
41 ~~Council~~commission, and G.S. 114-2 shall not apply.

42 (i) If after 130 days after a complaint has been filed the ~~Council-commission~~ has  
43 failed to resolve the complaint or issue a right-to-sue letter, the ~~Council-commission~~  
44 shall, upon written request of the complainant, issue a right-to-sue letter to the

1 complainant. Issuance of a letter under this subsection shall not prevent the ~~Council~~  
2 commission from commencing a civil action under subsection (h)(2) of this section  
3 which action shall be consolidated with any action filed by the complainant.

4 (j) The court may grant relief, as it deems appropriate, any permanent or  
5 temporary injunction, temporary restraining order, or other order, and may award to the  
6 plaintiff, actual and punitive damages, and may award court costs, and reasonable  
7 attorney's fees to the prevailing party, other than a State agency or commission;  
8 Provided, however, that a prevailing respondent may be awarded court costs and  
9 reasonable attorney's fees only upon a showing that the case is frivolous, unreasonable,  
10 or without foundation.

11 If the action is brought by the ~~Council~~commission on behalf of a complainant, the  
12 court may award actual and punitive damages to the complainant. The court may award  
13 punitive damages to a prevailing plaintiff or complainant only if it is shown that the  
14 defendant committed a violation of this Chapter with intent to discriminate.

15 (k) Parties to a civil action brought pursuant to this Chapter shall have the right to  
16 a jury trial as provided for by the North Carolina Rules of Civil Procedure."

17 Sec. 4. G.S. 41A-8 reads as rewritten:

18 "**§ 41A-8. Investigation; subpoenas.**

19 (a) In conducting an investigation, the ~~Council~~commission shall have access at  
20 all reasonable times to premises, records, documents, individuals, and other evidence or  
21 possible sources of evidence and may examine, record, and copy such materials and  
22 take and record the testimony or statements of such persons as are reasonably necessary  
23 for the furtherance of the investigation: Provided, however, that the ~~Council~~  
24 commission first complies with the provisions of the Fourth Amendment to the United  
25 States Constitution relating to unreasonable searches and seizures.

26 (b) The ~~Council~~commission may issue subpoenas to compel access to or the  
27 production of such materials, or the appearance of such persons, and may issue  
28 interrogatories to a respondent, to the same extent and subject to the same limitations as  
29 would apply if the subpoenas or interrogatories were issued or served in aid of a civil  
30 action in the general court of justice.

31 (c) Upon written application to the ~~Council~~commission, a respondent shall be  
32 entitled to the issuance of a reasonable number of subpoenas subject to the same  
33 limitations as subpoenas issued by the ~~Council~~commission. Subpoenas issued at the  
34 request of a respondent shall show on their face the name and address of such  
35 respondent and shall state that they were issued at his request.

36 (d) In case of contumacy or refusal to obey a subpoena, the ~~Council~~commission  
37 or the respondent may petition for its enforcement in the superior court for the district in  
38 which the person to whom the subpoena was addressed resides, was served, or transacts  
39 business."

40 Sec. 5. G.S. 41A-9 reads as rewritten:

41 "**§ 41A-9. Statute of limitation.**

42 A civil action brought pursuant to this Chapter shall be commenced within 180 days  
43 after the filing of a complaint with the ~~Council~~commission."

44 Sec. 6. G.S. 143-422.3 reads as rewritten:

1 **"§ 143-422.3. Investigations; conciliations.**

2 The Human Relations ~~Council~~Commission in the Department of Administration  
3 shall have the authority to receive charges of discrimination from the Equal  
4 Employment Opportunity Commission pursuant to an agreement under Section 709(b)  
5 of Public Law 88-352, as amended by Public Law 92-261, and investigate  
6 and conciliate charges of discrimination. Throughout this process, the agency shall use  
7 its good offices to effect an amicable resolution of the charges of discrimination."

8 Sec. 7. This act shall become effective October 1, 1989.