

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date December 4, 1975

To Terry Ann Lunt-Aucoin Dept. Human Rights Commission
From Robert J. Stolt, Assistant Dept. Attorney General
Subject Amendments to the Maine Human Rights Act

This will respond to your request of September 22, 1975, in which you inquire as to the legal effect of certain inconsistent Human Rights enactments by the 107th Legislature.

Specifically, you ask:

1. Whether the enclosed statute prepared by the Commission and incorporating Chapters 355, 358, 151 and 357 of the Public Laws of 1975, accurately reflects the Legislature's intent of those public laws?

2. Whether the Commission can proceed to enforce the enclosed statute after October 3, 1975, until the Errors and Inconsistencies Bill to be presented at the Special Session of the 107th Legislature?

Each of the chapters to which your inquiry refers was enacted to make a specific change in the Maine Human Rights Act. Each chapter is the culmination of a separate Legislative Document. While the Legislature could have consolidated all of the Human Rights Act Legislative Documents which were enacted into a single Legislative Document, it chose to enact each separately. As each successive Legislative Document came up for enactment, the Legislature impliedly was aware of the action it had taken on each predecessor. Consequently, later enactment of a bill inconsistent with one previously enacted did not by implication repeal the one earlier enacted. Rather, the Legislature merely enacted the specific change, leaving for the codifier the task of incorporating the cumulative changes into a single statute. The changes enacted by those chapters are as follows:

	C. 151	C. 355	C. 357	C. 358
Section and change § 4552	--	Adds "to prevent discrimination in the extension of credit on account of age, race, color, sex, marital status, religion, ancestry or national origin	--	Adds "or mental handicap
§ 4553	--	--	--	Adds new sub-section <u>7-A Physical or Mental Handicap</u>
§ 4566	--	changes "country of ancestral origin to "age, ancestry or national origin" in sub-sections 6, 10, & 11.	--	adds "or mental handicap" to sub-section 6, 10, & 11.
§ 4571	--	changes "religious creed" to "religion"	--	adds "or mental handicap"
§ 4572	--	changes "country of ancestral origin" to ancestry or national origin" in subparagraphs A & B. And adds a new subparagraph E	--	Adds "or mental handicap"

C. 151

C. 355

C. 357

C. 358

Section and change

§ 4572 con't.

For an employer or employment agency or labor organization to discriminate in any manner against any individual because they have opposed any practice which would be in violation of this Act, or because they have made a charge, testified or assisted in any manner in any investigation, proceeding or hearing under this Act.

	C. 151	C. 355	C. 357	C. 358
Section and change § 4573		Adds new subsection 4 <u>Refuse to hire or Discharge Physically Handicapped</u>	--	--
§ 4581	--	Changes "religious creed" to "religion"		adds "or mental handicap"
§ 4582	Adds new paragraph at end "for any person furnishing rental premises to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state, or local public assistance, including medical assistance, and housing subsidies solely because of such individuals status as such recipient.	Change "country of origin" to "ancestry or national origin"	--	adds "or mental handicap"

	C. 151	C. 355	C. 357	C. 358
Section and change				
§ 4583	Adds "the receipt of public assistance payments"	--	--	adds "or mental handicap" and inserts "ancestral" between "county of" and "origin."
§ 4591		adds "physical handicap" and changes "religious creed" to "religion"		adds "physical or mental handicap"
§ 4592	--	changes "country of ancestral origin" to "ancestry or national origin"	--	adds "or mental handicap" and "mentally handicapped"
§ 4593	--	changes "physical handicap" to "physically handicapped" and adds "or when the total costs for remodeling or enlarging an existing building exceeds \$250,000."	--	--
§ 4595	--	changes "religious creed" to "religion"	--	--

	C. 151	C. 355	C. 357	C. 358
Section and change § 4596	--	changes "religious" creed" to "religion"	--	--
§ 4598	--	Changes "Bank Superintendent" to "Superintend- ent of Banks and Banking" and "Commission on Human Rights" to "Human Rights Commission"	--	--
§ 4611		Adds "believes he" to first sentence	Adds "pro- vided, how- ever, that such complaint must be filed with the Commission not more than 6 months after the act of un- lawful discrim- ination com- plained of.	
§ 4612	--	--	--	Adds "or mental handicap"
§ 4613			Changes limit- ation from one to two years	

The statute which you enclose does exactly what the Legislature contemplated. It codifies all the above changes in the Maine Human Rights Act which were enacted in the Regular Session of the 107th Legislature.

The Maine Human Rights Act does not give the Maine Human Rights Commission enforcement authority. The Act merely provides the Commission with investigatory functions. Enforcement may be achieved only by initiating court action. The Act gives the Commission a remedy by allowing it to commence a civil action in Superior Court pursuant to § 4611, et seq. Therefore, although the Commission may not directly enforce the enclosed statute, it may seek such enforcement by commencing an otherwise proper action in Superior Court.



ROBERT J. STOLT
Assistant Attorney General

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