MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 967

H.P. 614

House of Representatives, March 2, 2023

An Act to Strengthen Protections of Persons After a Maine Human Rights Commission Investigation Finds No Reasonable Grounds Exist to Believe Unlawful Discrimination Occurred

Reference to the Committee on Judiciary suggested and ordered printed.

ROBERT B. HUNT

Clerk

Presented by Representative GREENWOOD of Wales.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §4612, sub-§2-A, as amended by PL 2021, c. 366, §20, is further amended by amending the first blocked paragraph to read:

An administrative dismissal operates as an order of dismissal and has the same effect as a finding by the commission that no reasonable grounds exist to believe that unlawful discrimination has occurred, except that an administrative dismissal does not trigger the prohibitions in subsection 4, paragraph C and except that an administrative dismissal pursuant to paragraph C does not entitle the complainant to an award of attorney's fees, civil penal damages or compensatory and punitive damages.

- **Sec. 2. 5 MRSA §4612, sub-§4,** as amended by PL 2019, c. 465, §6, is further amended to read:
- **4. Civil action by commission.** The commission may file a civil action <u>only</u> in accordance with this subsection.
 - A. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a protected class group if relief is not immediately granted, or if conciliation efforts under subsection 3 have not succeeded, the commission may file in the Superior Court a civil action seeking such relief as is appropriate, including temporary restraining orders. In a complaint investigated pursuant to a memorandum of understanding between the commission and the United States Department of Housing and Urban Development that results in a reasonable grounds determination, the commission shall file a civil action for the use of complainant if conciliation efforts under subsection 3 are unsuccessful.
 - B. Grounds for the filing of such an action before attempting conciliation include, but are not limited to:
 - (1) In unlawful housing discrimination, that the housing accommodation sought is likely to be sold or rented to another during the pendency of proceedings, or that an unlawful eviction is about to occur;
 - (2) In unlawful employment discrimination, that the victim of the discrimination has lost or is threatened with the loss of job and income as a result of such discrimination;
 - (3) In unlawful public accommodations discrimination, that such discrimination is causing inconvenience to many persons; and
 - (4) In any unlawful discrimination, that the victim of the discrimination is suffering or is in danger of suffering severe financial loss in relation to circumstances, severe hardship or personal danger as a result of such discrimination.
 - C. If, after investigation, the commission finds that no reasonable grounds exist to believe that unlawful discrimination has occurred, neither the commission nor commission staff may:

- 1 (1) File a civil action on behalf of the commission or on behalf of the complainant
 2 arising out of the facts and circumstances alleged in the complaint that was
 3 dismissed;
 - (2) Provide assistance, including legal, financial or administrative assistance, to a complainant who files a civil action under section 4621 arising out of the facts and circumstances alleged in the complaint that was dismissed; or
 - (3) Expend any commission resources to assist a complainant who files a civil action under section 4621 arising out of the facts and circumstances alleged in the complaint that was dismissed.
 - **Sec. 3. 5 MRSA §4614,** as amended by PL 2019, c. 465, §7, is further amended to read:

§4614. Attorney's fees and costs

In any civil action under this Act, the court, in its discretion, may allow the prevailing party reasonable attorney's fees and costs, except that the commission may not be awarded attorney's fees and costs and is not liable to pay any party's attorney's fees and costs unless the court finds that the commission violated section 4612, subsection 4, paragraph C, in which case the court shall order the commission to pay the defendant's reasonable attorney's fees and costs.

Sec. 4. Application. Notwithstanding the Maine Revised Statutes, Title 1, section 302, this Act applies to any case that is pending on the effective date of this Act.

21 SUMMARY

This bill prohibits the Maine Human Rights Commission and commission staff from filing a civil action arising out of the facts and circumstances alleged in a complaint if the commission dismissed that complaint based on a finding that no reasonable grounds exist to believe that unlawful discrimination occurred. The bill also prohibits the commission and commission staff from providing assistance, including legal, financial or administrative assistance, to a complainant who files a civil action arising out of the facts and circumstances alleged in such a complaint. If a court finds that the commission or commission staff have violated these prohibitions, the court is directed to order the commission to pay the defendant's reasonable attorney's fees and costs.

Notwithstanding the Maine Revised Statutes, Title 1, section 302, these prohibitions apply to any case that is pending on the effective date of this legislation.