

# HOUSE . . . . . No. 5636

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## The Commonwealth of Massachusetts

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EXECUTIVE OFFICE FOR  
ADMINISTRATION AND FINANCE  
BOSTON, MASSACHUSETTS 02133, MARCH 16, 1977.

*To the Honorable Senate and House of Representatives:*

Under the authority of section 4 of chapter 7 of the General Laws, I am submitting to your honorable bodies the attached legislation entitled "An Act Authorizing the Commission Against Discrimination to Award Attorneys' Fees and Costs to a Prevailing Party".

This bill gives statutory authorization to the Massachusetts Commission Against Discrimination to award attorneys' fees and costs to prevailing parties. A recent United States Supreme Court decision, *Alyeska Pipeline Service Co. v. Wilderness Society*, 421 U.S. 240 (1975) indicated that specific statutory authorization is necessary to allow such awards. Therefore, this bill is necessary to insure that the Commission has the discretion to award attorneys' fees and costs to prevailing parties in certain cases.

Section 1 of the bill adds a sentence permitting discretionary awards of attorneys' fees and costs to prevailing parties. Section 2 removes a statutory prohibition against the award of attorneys' fees in cases involving discrimination in housing or real estate.

I hope that your honorable bodies will act favorably on this legislation.

Respectfully submitted,

JOHN R. BUCKLEY  
*Secretary of Administration*

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Seventy-Seven.

**AN ACT AUTHORIZING THE COMMISSION AGAINST DISCRIMINATION TO  
AWARD ATTORNEYS' FEES AND COSTS TO A PREVAILING PARTY.**

*Be it enacted by the Senate and House of Representatives in  
General Court assembled, and by the authority of the same, as  
follows:*

1 SECTION 1. The second paragraph of section 5 of chapter  
2 151B of the General Laws, as most recently amended by section 3  
3 of chapter 463 of the acts of 1976, is hereby amended by inserting  
4 after the twenty-third sentence, the following sentence: — In any  
5 proceeding under this chapter the commission in its discretion  
6 may allow the prevailing party, other than the commonwealth, a  
7 reasonable attorneys' fee and costs.

1 SECTION 2. The third paragraph of section 5 of chapter 151B  
2 of the General Laws, as appearing in chapter 569 of the acts of  
3 1965, is hereby amended by striking out, in lines 11 and 12, the  
4 words "provided, however, that such damages shall not include  
5 attorneys' fees."