ZARELLA, J., with whom PALMER, J., joins, concurring in part and dissenting in part. I agree with the conclusion in part I of the majority opinion that the named defendant commission on human rights and opportunities (commission) has standing to bring this appeal. I disagree, however, with the reasoning of the majority in part II of its opinion and its conclusion that the time limitation in General Statutes § 46a-82 (e) is not subject matter jurisdictional.

The analysis of the majority relies, in large part, on its perception that this court has been inconsistent in its approach to determining whether a time limitation is a subject matter jurisdictional bar. The majority asserts that there are two lines of cases: one that ''focuse[s] on whether the legislature intended the time limitation to be subject matter jurisdictional''[1] and another that ''focuse[s] on whether the statutory provision is mandatory or directory.''[2] Page 267 of the majority opinion. The majority notes that, within the second line of cases, some cases equate mandatory language with jurisdiction; see *Doe* v. *Statewide Grievance Committee*, 240 Conn. 671, 683, 694 A.2d 1218 (1997); *Angelsea Productions, Inc.* v. *Commission on Human Rights & Opportunities*, 236 Conn. 681, 700 n.13, 674 A.2d 1300 (1996)

(*Angelsea I*); while others separate the concepts of mandatory language and subject matter jurisdiction. See, e.g., *Federal Deposit Ins. Corp.* v. *Hillcrest Associates*, 233 Conn. 153, 173, 646 A.2d 138 (1995); *Statewide Grievance Committee* v. *Rozbicki*, 211 Conn. 232, 240, 242, 558 A.2d 986 (1989).

In my view, the majority's construction of these analytical categories elevates form over substance. Notwithstanding the majority's creation of these analytical categories, all of the cases cited by the majority, including *Angelsea I* and *Doe*, consistently have used the tools of statutory interpretation—the language of the statute, legislative history, policy considerations, and the statute's relationship to existing legislation and common-law principles governing the same subject matter; e.g., *Commission on Human Rights & Opportunities* v. *Sullivan Associates*, 250 Conn. 763, 777, 739 A.2d 238 (1999)—to discern legislative intent. I do not quarrel with the majority's conclusion that, analytically, we are guided by *Banks* v. *Thomas*, 241 Conn. 569, 583, 698 A.2d 268 (1997), and *Ambroise* v. *William Raveis Real Estate, Inc.*, 226 Conn. 757, 764, 628 A.2d 1303 (1993). Nevertheless, I see no meaningful difference between the various classes of cases outlined by the majority inasmuch as all of those cases depend upon statutory interpretation to determine legislative intent.[3]

According to the majority, however, plain vanilla legislative intent is insufficient. Instead, the foundation of the majority opinion is its requirement that there be ''a *strong showing of a legislative intent* to create a time limitation that, in the event of noncompliance, acts as a subject matter jurisdictional bar.'' (Emphasis added; internal quotation marks omitted.) Page 269 of the majority opinion, quoting *Banks* v. *Thomas*, supra, 241 Conn. 583. Indeed, the notion that there must be a *strong showing* of legislative intent to create a jurisdictional time limit pervades the majority opinion.[4]

The notion that there must be such a showing originated in *Ambroise* v. *William Raveis Real Estate, Inc.*, supra, 226 Conn. 765. In that case, after concluding that ''the proper analysis of a statutory time limitation on the right to appeal devolves into a question of statutory construction''; id., 764; this court stated that, ''taking into account the established principle that every presumption is to be indulged in favor of jurisdiction . . . we require a strong showing of a legislative intent to create a time limitation that, in the event of noncompliance, acts as a subject matter jurisdictional bar.'' (Citations omitted; internal quotation marks omitted.) Id., 765. The court concluded that the legislature had intended the time limit at issue in *Ambroise* to be subject matter jurisdictional. Id. Because the *Ambroise* decision announced the requirement of a ''strong showing of a legislative intent''; id.; to create a jurisdictional time limit, it seems to me that it provides an appropriate

yardstick against which to assess the legislative intent in the present case.

Significantly, the court in *Ambroise* did not require that the statutory language or the legislative record expressly provide that the time limit is jurisdictional. Nor did it state, or even imply, that the presumption of jurisdiction requires that we ignore fundamental rules of statutory construction. Rather, the court relied on ''the language, the historical background and the purpose of the statute.'' Id.

In *Ambroise,* after discussing the statutory language, this court considered the historical background of the statutory scheme, drawing on a well established distinction between purely statutory actions and those that were recognized at common law. Id., 766. The court in *Ambroise* stated: ''It is significant . . . that [the statute] contains a statutory time period for taking an appeal with regard to a statutory remedy that has no common law counterpart. . . . Where . . . a specific time limitation is contained within a statute that creates a right of action that did not exist at common law, then the remedy exists only during the prescribed period and not thereafter. . . . In such cases, the time limitation is not to be treated as an ordinary statute of limitation, but rather is a limitation on the liability itself, and not of the remedy alone. . . . [U]nder such circumstances, the time limitation is a substantive and jurisdictional prerequisite, which may be raised [by the court] at any time, even by the court sua sponte, and may not be waived. . . . *Ecker* v. *West Hartford*, 205 Conn. 219, 232, 530 A.2d 1056 (1987) (wrongful death action); *Vecchio* v. *Sewer Authority,* 176 Conn. 497, 504–505, 408 A.2d 254 (1979) (appeal from sewer assessment); *Hillier* v. *East Hartford*, 167 Conn. 100, 104–105, 355 A.2d 1 (1974) (tort action against municipalities pursuant to General Statutes § 13a-149); *Diamond National Corporation* v. *Dwelle*, 164 Conn. 540, 546–47, 325 A.2d 259 (1973) (enforcement of mechanic's lien). *It is reasonable to infer, therefore, that the legislature intended the limitation on the right to appeal contained in* [*the statute*] *to operate similarly to these statutory time limitations on the right to initiate a statutory action*.'' (Citations omitted; emphasis added; internal quotation marks omitted.) *Ambroise* v. *William Raveis Real Estate, Inc.*, supra, 226 Conn. 766–67. Thus, under *Ambroise*—the first case to articulate the strong showing of intent requirement—the language of the statute and the fact that the statute did not have a common-law counterpart were strongly suggestive of a jurisdictional bar.

In the present case, the relevant language of General Statutes § 46a-82 (e) emphatically states: ''Any complaint filed pursuant to this section must be filed within one hundred and eighty days after the alleged act of discrimination . . . .'' As the court in *Ambroise* suc-

cinctly stated, ''[t]hat language means what it says.'' *Ambroise* v. *William Raveis Real Estate, Inc.*, supra, 226 Conn. 765. The majority also recognizes that words such as ''must'' and ''shall'' are consistent with a jurisdictional time limit.

Moreover, § 46a-82 creates a statutory time limit for initiating an adjudicatory process that is purely statutory in nature; an action under § 46a-82 has no common-law counterpart. I would conclude that, consistent with *Ambroise*, the language of § 46a-82 (e) and the fact that § 46a-82 affords a purely statutory remedy with no common-law counterpart are strongly suggestive of a legislative intent to make the time limits in § 46a-82 (e) subject matter jurisdictional.

In *Federal Deposit Ins. Corp.* v. *Hillcrest Associates*, supra, 233 Conn. 172, this court drew a distinction between time limits on the initiation of a statutory action and time limits on procedures occurring thereafter. In *Hillcrest Associates*, the defendants challenged the plaintiff's filing of a motion for a deficiency judgment beyond the statutory time limit. Id., 160, 162. In finding that the limit was nonjurisdictional, the court stated: ''We recognize that, as the defendants argue, in other contexts we have held that *where a specific time limitation is contained within a statute that creates a right of action that did not exist at common law . . . the time limitation is a substantive and jurisdictional prerequisite*, which may be raised at any time, even by the court sua sponte, and may not be waived. . . .

''That line of cases, however, is distinguishable. These cases, for the most part, involve time limitations, not only on the durational life of the particular cause of action, *but on the time within which the party must institute an action in court, or . . . before the proper quasi-judicial agency. Thus, they involve statutes that set time limitations for instituting the process of adjudication*.'' (Citations omitted; emphasis added; internal quotation marks omitted.) Id., 171–72. The court then concluded: ''Unlike the cases in which we held the statutory time limitation to be jurisdictional, the [statutory] time limitation [at issue in *Hillcrest Associates*] does not limit bringing the action to court in the first instance. . . . In the absence of clear legislative indication, it would be cutting the notion of subject matter jurisdiction too finely to apply it, not to a separate statutory cause of action, but to a statutory procedure that is part of, and complementary to, the traditional and equitable common law action of strict foreclosure.'' Id., 172. The majority's conclusion in the present case that § 46a-82 (e), which *does* ''set time limitations for instituting the process of adjudication''; id.; is not jurisdictional is contrary to the logic of *Hillcrest Associates*.

This court's decision in *Angelsea Productions, Inc.* v. *Commission on Human Rights & Opportunities*, supra, 236 Conn. 681, and legislative action in response

to that decision further support the view that the legislature intended the time limit in § 46a-82 (e) to be jurisdictional. In *Angelsea I*, this court held that the legislature intended the time limits in General Statutes (Rev. to 1993) §§ 46a-83 (b)[5] and 46a-84 (b)[6] that apply to the *commission* to be jurisdictional. *Angelsea Productions, Inc.* v. *Commission on Human Rights & Opportunities*, supra, 700. In *Angelsea Productions, Inc.* v. *Commission on Human Rights & Opportunities*, 248 Conn. 392, 399, 727 A.2d 1268 (1999) (*Angelsea II*), this court confirmed, without criticism, that *Angelsea I* had concluded that the legislature intended for those time limits on the statutory discriminatory practice complaint procedure carried out by the commission to be jurisdictional. Section 46a-82 (e) also governs that complaint procedure. The ''familiar principle of statutory construction that where the same words are used in a statute two or more times they will ordinarily be given the same meaning in each instance''; (internal quotation marks omitted) *Weinberg* v. *ARA Vending Co.*, 223 Conn. 336, 343, 612 A.2d 1203 (1992); supports the conclusion that, because the legislature intended the phrases ''shall make a finding . . . not later than nine months''; General Statutes (Rev. to 1993) § 46a-83 (b); and ''such hearing shall be held not later than ninety days''; General Statutes (Rev. to 1993) § 46a-84 (b); to be jurisdictional time limits, it also intended the phrase ''[a]ny complaint . . . must be filed'' to be jurisdictional.

Angelsea I also provides insight into the policy behind § 46a-82 (e). The complaint procedure in § 46a-82 was designed to provide both complainants and respondents with a means to resolve discrimination claims without the greater delay and expense characteristic of bringing an action in state or federal court. Quoting from the legislative record, the court in *Angelsea I* stated: ''The [commission] is in the nature of an administrative agency and the purpose of the administrative agency is to expeditiously resolve some complaints in more of an informal nature than the court system would allow.'' (Internal quotation marks omitted.) *Angelsea Productions, Inc.* v. *Commission on Human Rights & Opportunities*, supra, 236 Conn. 697, quoting 34 H.R. Proc., Pt. 23, 1991 Sess., pp. 8917–18, remarks of Representative Eric D. Coleman. As the Appellate Court concluded, ''[t]he *entire* discriminatory practice complaint procedure . . . can be implemented only through strict enforcement of its time limits.'' (Emphasis in original; internal quotation marks omitted.) *Williams* v. *Commission on Human Rights & Opportunities*, 54 Conn. App. 251, 257, 733 A.2d 902 (1999), quoting *Angelsea Productions, Inc.* v. *Commission on Human Rights & Opportunities*, supra, 236 Conn. 692.

The majority in the present case asserts that ''the legislature signaled its disapproval of [*Angelsea I*] by enacting Public Acts 1996, No. 96-241, which allowed

the commission to keep jurisdiction over any complaint filed with it on or before January 1, 1996, as well as by enacting Public Acts 1998, No. 98-245, which codified the commission's ability to retain jurisdiction over complaints even if it fails to meet statutory deadlines. Given these legislative pronouncements, [the court is] reluctant to read [*Angelsea I*] as controlling the question in the present case.'' Pages 281–82 of the majority opinion.

The majority, in my view, fails to consider fully the significance of the legislation enacted after *Angelsea I*. As the majority acknowledges, the legislature did not change the statutory language that this court had construed as jurisdictional. Rather, the 1996 legislation saved the commission's jurisdiction over complaints filed *before* January 1, 1996. Public Acts 1996, No. 96-241, § 1. I would conclude that ''[the legislature's] failure to correct or undermine what [this court] stated in [*Angelsea I*] is evidence that the legislature ha[d] validated [the] interpretation''; *Angelsea Productions, Inc.* v. *Commission on Human Rights & Opportunities*, supra, 236 Conn. 693; that the time limits in General Statutes (Rev. to 1993) §§ 46a-83 (b) and 46a-84 (b) continued to be a jurisdictional requirement for untimely filed complaints not saved by the 1996 legislation.

Furthermore, the legislature waited approximately two more years before it acted to preserve the commission's jurisdiction over untimely filed cases pending or filed *on or after* July 1, 1998. See Public Acts 1998, No. 98-245, §§ 8, 14. This court has recognized the ''presumption that, in enacting a statute, the legislature intend[s] to effect a change in existing law.'' *Shelton* v. *Commissioner of the Department of Environmental Protection*, 193 Conn. 506, 513, 479 A.2d 208 (1984). Common sense dictates that, before the 1998 legislation, the legislature accepted this court's holding in *Angelsea I* that the time limits in General Statutes (Rev. to 1993) §§ 46a-83 (b) and 46a-84 (b) are jurisdictional; otherwise, the 1998 legislation would have been unnecessary. This court should ''not presume that the legislature has enacted futile or meaningless legislation or that a change in a law was made without a reason.'' *City Council* v. *Hall*, 180 Conn. 243, 251, 429 A.2d 481 (1980).

The legislature's use of similar emphatic language in the same statutory scheme convinces me that the time limits of both provisions—those time limits binding the commission, which were construed as jurisdictional in *Angelsea I*, and the time limit in § 46a-82 (e)—would be subject matter jurisdictional until the legislature says otherwise. In 1998, the legislature made the *commission's* time limits nonjurisdictional. Although the legislature could have changed the time limit with respect to the filing of complaints in § 46a-82 (e) or could have added a provision for an extension of time, it did not do so. Because the legislature was well aware of this

court's view that some time limits in the discriminatory practice complaint procedure were jurisdictional, I would conclude that the failure to change the unequivocal language of § 46a-82 (e), which is part of that same procedure, suggests that the legislature also intended the time limit in that subsection to be jurisdictional. See *Scheyd* v. *Bezrucik*, 205 Conn. 495, 506, 535 A.2d 793 (1987) (because ''legislature is presumed to be aware of interpretation that courts have placed on existing legislation,'' failure of legislature to amend statute in response to our interpretation thereof presumes that it acquiesced in our interpretation).

Therefore, I would conclude that, consistent with the reasoning in *Ambroise* and *Angelsea I*, the strong showing of legislative intent has been made in this case. I, therefore, would affirm the Appellate Court's conclusion that ''must be filed'' in § 46a-82 (e) is subject matter jurisdictional.

Accordingly, I respectfully concur in part and dissent in part.

[1] E.g., *Banks* v. *Thomas*, 241 Conn. 569, 582, 698 A.2d 268 (1997).

[2] E.g., *Doe* v. *Statewide Grievance Committee*, 240 Conn. 671, 680–81, 694 A.2d 1218 (1997).

[3] The majority, after going to some trouble to determine that it should focus on legislative intent, shifts its gaze away from that intent regarding *jurisdiction* to a discussion of the legislature's intent regarding limitations on *remedies* in *Veeder-Root Co.* v. *Commission on Human Rights & Opportunities*, 165 Conn. 318, 332, 334 A.2d 443 (1973). The majority states: ''[F]rom 1975 forward, including the present, although the statutory scheme requires that the complaint be filed within 180 days from the last date of discrimination, the same statutory scheme permits the agency to award back pay for a period of up to two years. This bifurcation of the filing period and the permissible remedial period is inconsistent with the notion that the 180 day time limit for filing is subject matter jurisdictional, because it is unlikely that the legislature would have intended to place a subject matter jurisdictional time limitation on the filing of the claim that was different from and substantially shorter than the permissible remedial period for the same claim.'' Page 275 of the majority opinion. I do not agree with this conclusion.

Veeder-Root Co. concerned an award of back pay. See *Veeder-Root Co.* v. *Commission on Human Rights & Opportunities*, supra, 165 Conn. 330. The legislature's decision to limit the time during which back pay may be awarded is as consistent with a 180 day jurisdictional bar as it is with a statute of limitation. For example, assume that, as in *Veeder-Root Co.*, a female employee is hired and paid less than her male counterparts. She quits after three years. Assume also that the clock on the 180 day time limit begins to run after she receives her last paycheck. Pursuant to § 46a-82 (e), her complaint must be filed with the commission within 180 days. If she does so, and prevails, even though the discrimination in pay had persisted for three years, an award of back pay would be limited to two years under General Statutes § 46a-86 (b).

The majority's reliance on *State* v. *Commission on Human Rights & Opportunities*, 211 Conn. 464, 559 A.2d 1120 (1989), likewise is misplaced. The analysis in that case, like that in *Veeder-Root Co.*, resulted in a limitation on the remedy available. See generally id., 471–73, 475. Although the court did consider whether the complaint was timely, it resolved that issue by relying on a ''continuing violation'' theory under which each pension check received by the person subject to discrimination constituted a separate violation; id., 476; and not on the searching statutory analysis of legislative intent espoused by the majority in the present case. In sum, the most that can be said about the foregoing cases is that they neither support nor militate against a finding that the time limitation in § 46a-82 (e) is jurisdictional in nature.

[4] See page 266 of the majority opinion (''we have stated many times that

there is a presumption in favor of subject matter jurisdiction, and we require a strong showing of legislative intent that such a time limit is jurisdictional''); id., p. 269 (" '[i]n light of the strong presumption in favor of jurisdiction, we require a strong showing of a legislative intent to create a time limitation that, in the event of noncompliance, acts as a subject matter jurisdictional bar' "); id., pp. 269–70 ("[a]lthough we acknowledge that mandatory language may be an indication that the legislature intended a time requirement to be jurisdictional, such language alone does not overcome the strong presumption of jurisdiction''); id., p. 278 ("[t]here is no indication that the legislature intended to deprive the commission of the authority to entertain untimely discrimination complaints, much less a strong showing of a legislative intent to create a time limitation that, in the event of noncompliance, acts as a subject matter jurisdictional bar'' [internal quotation marks omitted]); id., p. 280 (criticizing *Angelsea I* because it did not "analyze whether there had been a strong showing that the presumption of jurisdiction had been overcome'').

[5] General Statutes (Rev. to 1993) § 46a-83 (b) provides: "Before issuing a finding of reasonable cause or no reasonable cause, the investigator shall afford each party and his representative an opportunity to provide written or oral comments on all evidence in the commission's file, except as otherwise provided by federal law or any other provision of the general statutes. The investigator [designated by the executive director of the commission] shall consider such comments in making his determination. *The investigator shall make a finding of reasonable cause or no reasonable cause in writing and shall list the factual findings on which it is based not later than nine months from the date of filing of the complaint, except that for good cause shown, the executive director or his designee may grant a single extension of the investigation of three months.* If the investigator makes a determination that there is reasonable cause to believe that a violation of section 46a-64c has occurred, the complainant and the respondent shall have twenty days from receipt of notice of the reasonable cause finding to elect a civil action in lieu of an administrative hearing pursuant to section 46a-84. If either the complainant or the respondent requests a civil action, the commission, through the attorney general or the commission counsel, shall commence an action pursuant to subsection (b) of section 46a-89 within forty-five days of receipt of the complainant's or the respondent's notice of election of a civil action." (Emphasis added.)

[6] General Statutes (Rev. to 1993) § 46a-84 (b) provides: "Upon certification of the complaint, the executive director of the commission or his designee shall appoint a hearing officer to act as a presiding officer to hear the complaint and shall cause to be issued and served in the name of the commission a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before the presiding officer at a time and place to be specified in the notice, *provided such hearing shall be held not later than ninety days after a finding of reasonable cause.*" (Emphasis added.)