

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 442

Introduced by Council, 11.

Read first time January 20, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to housing; to amend sections 20-331, 20-335,
2 20-340, and 20-343, Reissue Revised Statutes of Nebraska;
3 to provide for injunctive relief, procedural changes, and
4 for filing of a petition for relief by the commission
5 under the Nebraska Fair Housing Act; and to repeal the
6 original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 20-331, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 20-331 (1) If the commission concludes at any time
4 following the filing of a complaint that prompt judicial action
5 is necessary to carry out the purposes of the Nebraska Fair
6 Housing Act, the commission may authorize a civil action for
7 appropriate temporary or preliminary relief ~~pending~~ prior to final
8 disposition of the complaint, under this section. Upon receipt of
9 such an authorization, the Attorney General shall promptly ~~commence~~
10 ~~and maintain such an action.~~ file a petition seeking injunctive
11 relief and shall seek appropriate relief pursuant to the act. Any
12 temporary restraining order or other order granting preliminary
13 or temporary relief shall be issued in accordance with sections
14 25-1062 to 25-1080. The commencement of a civil action under
15 this section shall not affect the initiation or continuation of
16 administrative proceedings under this section and section 20-336.
17 If the Attorney General has not filed a petition for injunctive
18 relief in the appropriate district court thirty days after receipt
19 of authorization from the commission, the commission may employ
20 counsel on a fee-for-service basis or utilize in-house counsel to
21 file the petition directly in court.

22 (2) Whenever the commission has reason to believe that
23 a basis may exist for the commencement of proceedings against
24 any respondent under subsection (1) or (3) of section 20-343
25 or for proceedings by any governmental licensing or supervisory

1 authorities, the commission shall transmit the information upon
2 which such belief is based to the Attorney General or to such
3 authorities, as the case may be.

4 Sec. 2. Section 20-335, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 20-335 When a charge is issued under section 20-333, a
7 complainant, a respondent, or an aggrieved person on whose behalf
8 the complaint was filed may elect to have the claims asserted in
9 that charge decided in a civil action under section 20-340 in lieu
10 of a hearing under section 20-336. The election must be made not
11 later than twenty days after service has been made under section
12 20-333. The person making the election shall give notice of doing
13 so to the commission and ~~to~~ the commission shall notify all other
14 complainants and respondents to whom the charge relates. If one
15 party elects a civil action and the opposing party elects a hearing
16 under section 20-336, the first written request received by the
17 commission shall be authorized. If notice of such elections are
18 received on the same date, preference shall be given first to the
19 election of the aggrieved person, then the complainant, and lastly
20 the respondent.

21 Sec. 3. Section 20-340, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 20-340 (1) If an election is made under section 20-335 to
24 have the claims asserted in the charge decided in a civil action,
25 the commission shall authorize, ~~and not~~ the election. Not later

1 than thirty days after the election is made the Attorney General
2 shall file a petition in the appropriate district court seeking
3 damages and relief pursuant to the Nebraska Fair Housing Act. The
4 Attorney General shall commence and maintain, a the civil action
5 on behalf of the aggrieved person, in the appropriate district
6 court seeking relief under this section. If the Attorney General
7 has not filed a petition for relief in the appropriate district
8 court after thirty days, the commission shall employ counsel on
9 a fee-for-service basis or utilize in-house counsel to file a
10 petition seeking damages and relief pursuant to the act within
11 ninety days after the election under section 20-335.

12 (2) Any aggrieved person with respect to the issues to be
13 determined in a civil action under this section may intervene as of
14 right.

15 (3) In a civil action under this section, if the court
16 finds that a discriminatory housing practice has occurred or is
17 about to occur, the court may grant any relief which a court
18 could grant with respect to such discriminatory housing practice
19 in a civil action under section 20-342. Any relief so granted
20 that would accrue to an aggrieved person in such a civil action
21 shall also accrue to that aggrieved person in a civil action under
22 this section. If monetary relief is sought for the benefit of an
23 aggrieved person who does not intervene in the civil action, the
24 court shall not award such relief if that aggrieved person has not
25 complied with discovery orders entered by the court.

1 Sec. 4. Section 20-343, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 20-343 (1) Whenever the Attorney General has reasonable
4 cause to believe that any person or group of persons is engaged in
5 a pattern or practice of resistance to the full enjoyment of any
6 of the rights granted by the Nebraska Fair Housing Act or that any
7 group of persons has been denied any of the rights granted by the
8 act and such denial raises an issue of general public importance,
9 the Attorney General may commence a civil action in any appropriate
10 district court. If the commission provides documentation of pattern
11 and practice violations of the act and the Attorney General
12 declines to file civil action, the commission may employ counsel
13 on a fee-for-service basis or utilize in-house counsel to file a
14 petition seeking relief in the appropriate jurisdiction.

15 (2) (a) The Attorney General may commence a civil action
16 in any appropriate district court for appropriate relief with
17 respect to a discriminatory housing practice referred to the
18 Attorney General by the commission under section 20-337. The action
19 may be commenced not later than the expiration of eighteen months
20 after the date of the occurrence or the termination of the alleged
21 discriminatory housing practice.

22 (b) The Attorney General ~~may~~ shall commence a civil
23 action in any appropriate district court for appropriate relief
24 with respect to breach of a conciliation agreement referred to the
25 Attorney General by the commission under section 20-329. The action

1 may be commenced not later than the expiration of ~~ninety~~ thirty
2 days after the referral of the alleged breach under such section.
3 If the Attorney General has not filed a petition for enforcement
4 in the appropriate district thirty days after the referral, the
5 commission shall employ counsel on a fee-for-service basis or
6 utilize in-house counsel to file the petition directly in district
7 court.

8 (3) The Attorney General, on behalf of the commission or
9 other party at whose request a subpoena is issued under section
10 20-334, may enforce the subpoena in appropriate proceedings in the
11 district court for the county in which the person to whom the
12 subpoena was addressed resides, was served, or transacts business.

13 (4) (a) In a civil action under subsection (1) or (2) of
14 this section, the court:

15 (i) May award such temporary relief, including a
16 permanent or temporary injunction, a restraining order, or any
17 other order against the person responsible for a violation of the
18 act as is necessary to assure the full enjoyment of the rights
19 granted by the act;

20 (ii) May award such other relief as the court deems
21 appropriate, including monetary damages to persons aggrieved; and

22 (iii) May, to vindicate the public interest, assess a
23 civil penalty against the respondent:

24 (A) In an amount not exceeding fifty thousand dollars for
25 a first violation; and

1 (B) In an amount not exceeding one hundred thousand
2 dollars for any subsequent violation.

3 (b) In a civil action under this section, the court
4 may allow the prevailing party, other than the state, reasonable
5 attorney's fees and costs. The state shall be liable for such fees
6 and costs to the same extent as a private person.

7 (5) Upon timely application, any person may intervene in
8 a civil action commenced by the Attorney General under subsection
9 (1) or (2) of this section which involves an alleged discriminatory
10 housing practice with respect to which such person is an aggrieved
11 person or a conciliation agreement to which such person is a party.
12 The court may grant such appropriate relief to any such intervening
13 party as is authorized to be granted to a plaintiff in a civil
14 action under section 20-342.

15 Sec. 5. Original sections 20-331, 20-335, 20-340, and
16 20-343, Reissue Revised Statutes of Nebraska, are repealed.