

## **216.15A Additional proceedings housing discrimination.**

1. *a.* The commission may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation, the commission determines that the person should be alleged to have committed a discriminatory housing or real estate practice.

*b.* In addition to the information required in the notice, the commission shall include in a notice to a respondent joined under this subsection an explanation of the basis for the determination under this subsection that the person is properly joined as a respondent.

2. *a.* The commission shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the commission, to the extent feasible, engage in mediation with respect to the complaint.

*b.* A mediation agreement is an agreement between a respondent and the complainant and is subject to commission approval.

*c.* A mediation agreement may provide for binding arbitration or other method of dispute resolution. Dispute resolution that results from a mediation agreement may authorize appropriate relief, including monetary relief.

*d.* A mediation agreement shall be made public unless the complainant and respondent agree otherwise, and the commission determines that disclosure is not necessary to further the purposes of this chapter relating to unfair or discriminatory practices in housing or real estate.

*e.* The proceedings or results of mediation shall not be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons who are party to the mediation.

*f.* After the completion of the commission's investigation, the commission shall make available to the aggrieved person and the respondent information derived from the investigation and the final investigation report relating to that investigation.

*g.* When the commission has reasonable cause to believe that a respondent has breached a mediation agreement, the commission shall refer this matter to an assistant attorney general with a recommendation that a civil action be filed for the enforcement of the agreement. The assistant attorney general may commence a civil action in the appropriate district court not later than the expiration of ninety days after referral of the breach.

3. *a.* If the commission concludes, following the filing of a complaint, that prompt judicial action is necessary to carry out the purposes of this chapter relating to unfair or discriminatory housing or real estate practices, the commission may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint.

*b.* On receipt of the commission's authorization, the attorney general shall promptly file the action.

*c.* A temporary restraining order or other order granting preliminary or temporary relief under this section is governed by the applicable Iowa rules of civil procedure.

*d.* The filing of a civil action under this section does not affect the initiation or continuation of administrative proceedings in regard to an administrative hearing.

4. *a.* The commission shall prepare a final investigative report.

*b.* A final report under this section may be amended by the commission if additional evidence is discovered.

5. *a.* The commission shall determine based on the facts whether probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur.

*b.* The commission shall make its determination under paragraph "*a*" not later than one hundred days after a complaint is filed unless any of the following applies:

(1) It is impracticable to make the determination within that time period.

(2) The commission has approved a mediation agreement relating to the complaint.

*c.* If it is impracticable to make the determination within the time period provided by paragraph "*b*", the commission shall notify the complainant and respondent in writing of the reasons for the delay.

*d.* If the commission determines that probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall immediately issue a determination unless the commission determines that the legality of a zoning or land use law or ordinance is involved as provided in subsection 7.

6. *a.* A determination issued under subsection 5 must include all of the following:

(1) Must consist of a short and plain statement of the facts on which the commission has found probable cause to believe that a discriminatory housing or real estate practice has occurred or is about to occur.

(2) Must be based on the final investigative report.

(3) Need not be limited to the facts or grounds alleged in the complaint.

*b.* Not later than twenty days after the commission issues a determination, the commission shall send a copy of the determination with information concerning the election under section 216.16A to all of the following persons:

(1) Each respondent, together with a notice of the opportunity for a hearing as provided under subsection 10.

(2) Each aggrieved person on whose behalf the complaint was filed.

7. If the commission determines that the matter involves the legality of a state or local zoning or other land use ordinance, the commission shall not issue a determination and shall immediately refer the matter to the attorney general for appropriate action.

8. *a.* If the commission determines that no probable cause exists to believe that a discriminatory housing or real estate practice has occurred or is about to occur, the commission shall promptly dismiss the complaint.

*b.* The commission shall make public disclosure of each dismissal under this section.

9. The commission shall not issue a determination under this section regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing or real estate practice.

10. *a.* If a timely election is not made under section 216.16A, the commission shall provide for a hearing on the charges in the complaint.

*b.* Except as provided by paragraph "*c*", the hearing shall be conducted in accordance with chapter 17A for contested cases.

*c.* A hearing under this section shall not be continued regarding an alleged discriminatory housing or real estate practice after the beginning of the trial of a civil action commenced by the aggrieved person under federal or state law seeking relief with respect to that discriminatory housing or real estate practice.

11. *a.* If the commission determines at a hearing under subsection 10 that a respondent has engaged or is about to engage in a discriminatory housing or real estate practice, the commission may order the appropriate relief, including actual damages, reasonable attorney's fees, court costs, and other injunctive or equitable relief.

*b.* To vindicate the public interest, the commission may assess a civil penalty against the respondent in an amount that does not exceed the following applicable amount:

(1) Ten thousand dollars if the respondent has not been adjudged by the order of the commission or a court to have committed a prior discriminatory housing or real estate practice.

(2) Except as provided by paragraph "*c*", twenty-five thousand dollars if the respondent has been adjudged by order of the commission or a court to have committed one other discriminatory housing or real estate practice during the five-year period ending on the date of the filing of the complaint.

(3) Except as provided by paragraph "*c*", fifty thousand dollars if the respondent has been adjudged by order of the commission or a court to have committed two or more discriminatory housing or real estate practices during the seven-year period ending on the date of the filing of the complaint.

*c.* If the acts constituting the discriminatory housing or real estate practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing or real estate practice, the civil penalties in paragraph "*b*", subparagraphs (2) and (3) may be imposed without regard to the period of time within which any other discriminatory housing or real estate practice occurred.

*d.* At the request of the commission, the attorney general shall initiate legal proceedings to recover a civil penalty due under this section. Funds collected under this section shall be paid to the treasurer of state for deposit in the state treasury to the credit of the general fund.

12. This section applies only to the following:

*a.* Complaints which allege a violation of the prohibitions contained in section 216.8 or 216.8A.

*b.* Complaints which allege a violation of section 216.11 or 216.11A arising out of alleged violations of the prohibitions contained in section 216.8 or 216.8A.

13. If a provision of this section applies under the terms of subsection 12, and the provision of this section conflicts with a provision of section 216.15, then the provision contained within this section shall prevail. Similarly, if a provision of section 216.16A or 216.17A conflicts with a provision of section 216.16 or 216.17, then the provision contained in section 216.16A or 216.17A shall prevail.

91 Acts, ch 184, §9

CS91, § 601A.15A

92 Acts, ch 1129, §11, 12; 92 Acts, ch 1163, §108

C93, § 216.15A

2001 Acts, ch 24, §38