455B.111 Citizen actions.

1. Except as provided in subsection 2, a person with standing as provided in subsection 3 may commence a civil action in district court on the person's own behalf against any of the following:

a. A person, including the state of Iowa, for violating any provision of this chapter; chapter 459, subchapters I, II, III, IV, and VI; chapter 459A; chapter 459B; or a rule adopted pursuant to this chapter; chapter 459, subchapters I, II, III, IV, and VI; chapter 459A; or chapter 459B.

b. The director, the commission, or any official or employee of the department where there is an alleged failure to perform any act or duty under this chapter; chapter 459, subchapters I, II, III, IV, and VI; chapter 459A; chapter 459B; or a rule adopted pursuant to this chapter; chapter 459, subchapters I, II, III, IV, and VI; chapter 459A; or chapter 459B, which is not a discretionary act or duty.

2. An action shall not be commenced pursuant to subsection 1, paragraph *"a"*, unless the person commencing the action has provided the director and the alleged violator with a written notice at least sixty days prior to commencing the action. The written notice shall specify the nature of the violation and that legal action is contemplated under this section if the violation is not abated and, if necessary, remedial action is not taken. The state may intervene in such an action as a matter of right. In addition, an action shall not be commenced pursuant to subsection 1, paragraph *"a"*, if the department or the state has commenced and is actively prosecuting a civil action or is actively negotiating an out-of-court settlement to require abatement of the violation and, if necessary, remediation of damages. However, any person may intervene as a matter of right in such an action.

3. A person shall have standing to commence an action pursuant to subsection 1 or to intervene in an action pursuant to subsection 2 if the person is adversely affected by the alleged violation or the alleged failure to perform a duty or act.

4. In an action commenced pursuant to subsection 1, the court may award costs of litigation, including reasonable attorney and expert witness fees, to any party.

5. This section does not restrict any right under statutory or common law of a person or class of person to seek enforcement of provisions of this chapter; chapter 459, subchapters I, II, III, IV, and VI; chapter 459A; chapter 459B; or a rule adopted pursuant to this chapter; chapter 459, subchapters I, II, III, IV, and VI; chapter 459A; or chapter 459B; or seek other relief permitted under the law.

86 Acts, ch 1245, §1888; 2005 Acts, ch 136, §26, 27; 2009 Acts, ch 155, §25, 26, 34

Referred to in **§455K.8**