

161—9.4(216) Interpretation of provisions affecting court actions regarding alleged discriminatory housing or real estate practices occurring after July 1, 1991.

9.4(1) *Time limitation of rule.* This rule applies only to alleged discriminatory housing or real estate practices occurring after July 1, 1991.

9.4(2) *Aggrieved person's direct action in district court.*

a. Filing of complaint not necessary. A complaint which alleges either (1) a violation of the prohibitions contained in Iowa Code section 216.8 or 216.8A, or (2) a violation of Iowa Code section 216.11 or 216.11A arising out of alleged violations of the prohibitions contained in Iowa Code section 216.8 or 216.8A need not be filed with the commission in order for an aggrieved person to seek judicial remedies for that alleged violation. An aggrieved person may file an action alleging such violations directly in district court pursuant to Iowa Code section 216.16A(2).

b. Effect of commission processing.

(1) In general. The status of commission processing of a complaint alleging a discriminatory housing or real estate practice does not affect the rights of an aggrieved party to file a civil action under Iowa Code section 216.16A(2) based on that same or any other alleged discriminatory housing or real estate practice.

(2) Exceptions. Commission processing will bar an aggrieved person from filing a civil action under Iowa Code section 216.16A(2) based on an alleged discriminatory housing or real estate practice only where either:

1. The commission has obtained a mediation agreement with the consent of that aggrieved person regarding that alleged discriminatory housing or real estate practice, or

2. The commission has begun a contested case hearing on the record regarding that same alleged discriminatory housing or real estate practice.

c. Notification of commission. If a person has filed a complaint alleging a discriminatory housing or real estate practice with the commission and that person subsequently commences a civil action under Iowa Code section 216.16A(2) based on that same alleged discriminatory housing or real estate practice, the aggrieved person is encouraged to immediately notify the Iowa civil rights commission of the filing of the civil action.

d. Remedies. In an action filed directly in district court pursuant to Iowa Code section 216.16A(2), the court may, upon a finding of discrimination, order any of the remedies provided for in Iowa Code section 216.17A(6).

9.4(3) *Election to proceed in district court.*

a. In general. An aggrieved person on whose behalf a complaint was filed, a complainant, or a respondent may, pursuant to Iowa Code section 216.16A(1), elect to have the allegations asserted in the complaint decided in a civil action in district court. An election is made by filing a written notice of election with the commission. The date of filing of an election is the date the election is received by the commission at its offices in Des Moines. If such an election is made, the commission shall authorize and, within 30 days of the election, the attorney general shall file a civil action in district court on behalf of the aggrieved person. Failure to file within the 30-day period shall not, by itself, prejudice the rights of any of the parties.

b. Limitation. An election made under the previous paragraph must be made within 20 days of the receipt by the electing person of the determination of probable cause. The date of election is the date that the written notice of elections is filed with the commission.

c. Probable cause determination a prerequisite. No person may make an election pursuant to Iowa Code section 216.16A(1) until the commission has found probable cause regarding the complaint which is the subject of the election.

d. Notice required. An election to proceed in district court made under Iowa Code section 216.16A(1) is effective only if the electing person gives notice of the election to the commission and all other complainants and respondents to whom the election relates. Such notice shall be in writing, shall be delivered at the time the election is made, and may be made by regular mail.

e. Intervention. Once the commission commences an action in district court pursuant to Iowa Code section 216.17A(1) an aggrieved person may intervene in the action.

9.4(4) *Right-to-sue letter inapplicable.* A complainant need not, and should not, request a right-to-sue letter in order to file a civil action under Iowa Code section 216.16A(2) or to make an election as provided in Iowa Code section 216.16A(1).

9.4(5) *Appointment of attorney by court.* Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may:

- a.* Appoint an attorney for the person, or
- b.* Authorize the commencement or continuation of a civil action under Iowa Code section 216.16A(2) without the payment of fees, costs, or security if, in the opinion of the court, the person is financially unable to bear the costs of such action.