

In Judiciary to Bill 4/4/91 (p. 1204)

Reprinted

MAR 26 1991

HOUSE FILE 656

BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

Place On Calendar

(SUCCESSOR TO HSB 198)

Passed House, Date 4/4/91 (p. 1098) Passed Senate, Date 5/6/91 (p. 1679)
Vote: Ayes 80 Nays 12 Vote: Ayes 47 Nays 0
Approved May 17, 1991

A BILL FOR

1 An Act relating to unfair or discriminatory practices in housing
2 and real estate, providing civil remedies, and a criminal
3 penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 656

1 Section 1. Section 601A.5, Code 1991, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 13. To issue subpoenas and order
4 discovery as provided by this section in aid of investigations
5 and hearings of alleged unfair or discriminatory housing or
6 real property practices. The subpoenas and discovery may be
7 ordered to the same extent and are subject to the same
8 limitations as subpoenas and discovery in a civil action in
9 district court.

10 NEW SUBSECTION. 14. To defer proceedings and refer a
11 complaint to a local commission that has been recognized by
12 the United States department of housing and urban development
13 as having adopted ordinances providing fair housing rights and
14 remedies that are substantially equivalent to those granted
15 under federal law.

16 Sec. 2. NEW SECTION. 601A.8A ADDITIONAL UNFAIR OR
17 DISCRIMINATORY PRACTICES -- HOUSING.

18 1. A person shall not, for profit, induce or attempt to
19 induce another person to sell or rent a dwelling by
20 representations regarding the entry or prospective entry into
21 a neighborhood of a person of a particular race, color, creed,
22 sex, religion, national origin, disability, or familial
23 status.

24 2. A person shall not represent to another person because
25 of race, color, creed, sex, religion, national origin,
26 disability, or familial status that a dwelling is not
27 available for inspection, sale, or rental when the dwelling is
28 available for inspection, sale, or rental.

29 3. a. A person shall not discriminate in the sale or
30 rental or otherwise make unavailable or deny a dwelling to a
31 buyer or renter because of a disability of any of the
32 following persons:

- 33 (1) That buyer or renter.
- 34 (2) A person residing in or intending to reside in that
35 dwelling after it is sold, rented, or made available.

1 (3) A person associated with that buyer or renter.

2 b. A person shall not discriminate against another person
3 in the terms, conditions, or privileges of sale or rental of a
4 dwelling or in the provision of services or facilities in
5 connection with the dwelling because of a disability of any of
6 the following persons:

7 (1) That person.

8 (2) A person residing in or intending to reside in that
9 dwelling after it is sold, rented, or made available.

10 (3) A person associated with that person.

11 c. For the purposes of this subsection only,
12 discrimination includes any of the following circumstances:

13 (1) A refusal to permit, at the expense of the disabled
14 person, reasonable modifications of existing premises occupied
15 or to be occupied by the person if the modifications are
16 necessary to afford the person full enjoyment of the premises.

17 (2) A refusal to make reasonable accommodations in rules,
18 policies, practices, or services, when the accommodations be
19 necessary to afford the person equal opportunity to use and
20 enjoy a dwelling.

21 (3) In connection with the design and construction of
22 covered multifamily dwellings for first occupancy after March
23 17, 1991, a failure to design and construct those dwellings in
24 a manner that meets the following requirements:

25 (a) The public use and common use portions of the
26 dwellings are readily accessible to and usable by disabled
27 persons.

28 (b) All doors designed to allow passage into and within
29 all premises within the dwellings are sufficiently wide to
30 allow passage by disabled persons in wheelchairs.

31 (c) All premises within the dwellings contain the
32 following features of adaptive design:

33 (i) An accessible route into and through the dwelling.

34 (ii) Light switches, electrical outlets, thermostats, and
35 other environmental controls in accessible locations.

1 (iii) Reinforcements in bathroom walls to allow later
2 installation of grab bars.

3 (iv) Usable kitchens and bathrooms so that a person in a
4 wheelchair can maneuver about the space.

5 d. Compliance with the appropriate requirements of the
6 American national standard for buildings and facilities pro-
7 viding accessibility and usability for physically handicapped
8 people, commonly cited as "ANSI A 117.1", satisfies the
9 requirements of paragraph "c", subparagraph (3), subparagraph
10 subdivision (c).

11 e. Nothing in this subsection requires that a dwelling be
12 made available to a person whose tenancy would constitute a
13 direct threat to the health or safety of other persons or
14 whose tenancy would result in substantial physical damage to
15 the property of others.

16 4. a. A person whose business includes engaging in resi-
17 dential real estate related transactions shall not
18 discriminate against a person in making a residential real
19 estate related transaction available or in terms or conditions
20 of a residential real estate related transaction because of
21 race, color, creed, sex, religion, national origin,
22 disability, or familial status.

23 b. For the purpose of this subsection, "residential real
24 estate related transaction" means any of the following:

25 (1) To make or purchase loans or provide other financial
26 assistance to purchase, construct, improve, repair, or
27 maintain a dwelling or to secure residential real estate.

28 (2) To sell, broker, or appraise residential real estate.

29 5. A person shall not deny another person access to, or
30 membership or participation in, a multiple-listing service,
31 real estate brokers' organization or other service,
32 organization, or facility relating to the business of selling
33 or renting dwellings, or discriminate against a person in
34 terms or conditions of access, membership, or participation in
35 such organization because of race, color, creed, sex,

1 religion, national origin, disability, or familial status.

2 Sec. 3. NEW SECTION. 601A.11A HOUSING DISCRIMINATION,
3 THREAT OF FORCE OR INTIMIDATION -- PENALTY.

4 1. A person commits a public offense if the person,
5 whether or not acting under color of law, by force or threat
6 of force, intentionally intimidates or interferes with or
7 attempts to interfere with a person under any of the following
8 circumstances.

9 a. Because of the person's race, color, creed, sex,
10 religion, national origin, disability, or familial status, and
11 because the person is or has been selling, purchasing,
12 renting, occupying, or financing, contracting for, or
13 negotiating for the sale, purchase, rental, or occupation of
14 any dwelling, or applying for or participating in a service,
15 organization, or facility relating to the business of selling
16 or renting dwellings.

17 b. Because the person is or has been doing any of the
18 following:

19 (1) Participating, without discrimination because of race,
20 color, creed, sex, religion, national origin, disability, or
21 familial status, in an activity, service, organization, or
22 facility described in paragraph "a".

23 (2) Affording another person the opportunity or protection
24 to so participate.

25 (3) Lawfully aiding or encouraging other persons to
26 participate, without discrimination because of race, color,
27 creed, sex, religion, national origin, disability, or familial
28 status, in an activity, service, organization, or facility
29 described in paragraph "a".

30 2. A person violating this section is guilty of a serious
31 misdemeanor.

32 Sec. 4. Section 601A.12, subsection 3, Code 1991, is
33 amended to read as follows:

34 3. The rental or leasing of less than ~~six~~ four rooms
35 within a single housing accommodation by the occupant or owner

1 of such housing accommodation, if the occupant or owner or
2 members of that person's family reside therein in the
3 accommodation.

4 Sec. 5. Section 601A.12, subsection 6, paragraph a, Code
5 1991, is amended to read as follows:

6 a. For ~~ninety~~ eighty percent occupancy by at least one
7 person fifty-five years of age or older per unit, and
8 providing significant facilities and services specifically
9 designed to meet the physical or social needs of such persons.

10 Sec. 6. NEW SECTION. 601A.12A ADDITIONAL HOUSING
11 EXCEPTION.

12 Section 601A.8A does not prohibit a person engaged in the
13 business of furnishing appraisals of real estate from taking
14 into consideration factors other than race, color, creed, sex,
15 religion, national origin, disability, or familial status in
16 appraising real estate.

17 Sec. 7. NEW SECTION. 601A.15A ADDITIONAL PROCEEDINGS -
18 HOUSING DISCRIMINATION.

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

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

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

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

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

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

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

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

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

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

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

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

34 4. a. The commission shall prepare a final investigative
35 report.

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

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

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

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

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

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

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

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

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

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

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

33 b. Not later than twenty days after the commission issues
34 a determination, the commission shall send a copy of the
35 determination with information concerning the election under

1 section 601A.16A to all of the following persons:

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

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

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

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

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

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

23 10. a. If a timely election is not made under section
24 601A.16A, the commission shall provide for a hearing on the
25 charges in the complaint.

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

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

35 11. a. If the commission determines at a hearing under

1 subsection 10 that a respondent has engaged or is about to
2 engage in a discriminatory housing or real estate practice,
3 the commission may order the appropriate relief, including
4 actual damages, reasonable attorney's fees, court costs, and
5 other injunctive or equitable relief.

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

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

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

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

25 c. If the acts constituting the discriminatory housing or
26 real estate practice that is the object of the complaint are
3472 27 committed by the same person who has been previously adjudged
28 to have committed acts constituting a discriminatory housing
29 or real estate practice, the civil penalties in paragraph "b",
30 subparagraphs (2) and (3) may be imposed without regard to the
31 period of time within which any other discriminatory housing
32 or real estate practice occurred.

33 d. At the request of the commission, the attorney general
34 shall initiate legal proceedings to recover a civil penalty
35 due under this section. Funds collected under this section

1 shall be paid to the treasurer of state for deposit in the
2 state treasury to the credit of the general fund.

3443 Sec. 8. NEW SECTION. 601A.16A CIVIL ACTION ELECTED --
4 HOUSING.

5 1. a. A complainant, a respondent, or an aggrieved person
6 on whose behalf the complaint was filed may elect to have the
7 charges asserted in the complaint decided in a civil action as
8 provided by section 601A.17A.

9 b. The election must be made not later than twenty days
10 after the date of receipt by the electing person of service
11 under section 601A.15, subsection 5, or in the case of the
12 commission, not later than twenty days after the date the
13 determination was issued.

14 c. The person making the election shall give notice to the
15 commission and to all other complainants and respondents to
16 whom the election relates.

17 2. a. An aggrieved person may file a civil action in
18 district court not later than two years after the occurrence
19 of the termination of an alleged discriminatory housing or
20 real estate practice, or the breach of a mediation agreement
21 entered into under this chapter, whichever occurs last, to
22 obtain appropriate relief with respect to the discriminatory
23 housing or real estate practice or breach.

24 b. The two-year period does not include any time during
25 which an administrative hearing under this chapter is pending
26 with respect to a complaint or charge based on the
27 discriminatory housing or real estate practice. This
28 subsection does not apply to actions arising from a breach of
29 a mediation agreement.

30 c. An aggrieved person may file an action under this
31 section whether or not a discriminatory housing or real estate
32 complaint has been filed under section 601A.15A, and without
33 regard to the status of any discriminatory housing or real
34 estate complaint filed under that section.

35 d. If the commission has obtained a mediation agreement

1 with the consent of an aggrieved person, the aggrieved person
2 shall not file an action under this section with respect to
3 the alleged discriminatory practice that forms the basis for
4 the complaint except to enforce the terms of the agreement.

5 e. An aggrieved person shall not file an action under this
6 section with respect to an alleged discriminatory housing or
7 real estate practice that forms the basis of a charge issued
8 by the commission if the commission has begun a hearing on the
9 record under this chapter with respect to the charge.

10 Sec. 9. NEW SECTION. 601A.17A CIVIL PROCEEDINGS --
11 HOUSING.

5586 12 1. a. If timely election is made under section 601A.16A,
13 subsection 1, the commission shall authorize, and not later
14 than thirty days after the election is made, the attorney
15 general shall file a civil action on behalf of the aggrieved
16 person in a district court seeking relief.

17 b. Venue for an action under this section is in the county
18 in which the alleged discriminatory housing or real estate
19 practice occurred.

20 c. An aggrieved person may intervene in the action.

21 d. If the district court finds that a discriminatory
22 housing or real estate practice has occurred or is about to
23 occur, the district court may grant as relief any relief that
24 a court may grant in a civil action under subsection 6.

25 e. If monetary relief is sought for the benefit of an
26 aggrieved person who does not intervene in the civil action,
27 the district court shall not award the monetary relief if that
28 aggrieved person has not complied with discovery orders
29 entered by the district court.

30 2. A commission order under section 601A.15A, subsection
31 11, does not affect a contract, sale, encumbrance, or lease
32 that was consummated before the commission issued the order
33 and involved a bona fide purchaser, encumbrancer, or tenant
34 who did not have actual notice of the charge issued under this
35 chapter.

1 3. If the commission issues an order with respect to a
2 discriminatory housing practice that occurred in the course of
3 a business subject to a licensing or regulation by a
4 governmental agency, the commission, not later than thirty
5 days after the date of issuance of the order, shall do all of
6 the following:

7 a. Send copies of the findings and the order to the
8 governmental agency.

9 b. Recommend to the governmental agency appropriate
10 disciplinary action.

11 4. If the commission issues an order against a respondent
12 against whom another order was issued within the preceding
13 five years under section 601A.15A, subsection 11, the
14 commission shall send a copy of each order issued under that
15 section to the attorney general.

16 5. On application by a person alleging a discriminatory
17 housing practice or by a person against whom a discriminatory
18 practice is alleged, the district court may appoint an
19 attorney for the person.

20 6. In an action under this section, if the district court
21 finds that a discriminatory housing or real estate practice
22 has occurred or is about to occur, the district court may
23 award or issue to the plaintiff one or more of the following:

24 a. Actual and punitive damages.

25 b. Reasonable attorney's fees.

26 c. Court costs.

27 d. Subject to subsection 7, any permanent or temporary
28 injunction, temporary restraining order, or other order,
29 including an order enjoining the defendant from engaging in
30 the practice or ordering appropriate affirmative action.

31 7. Relief granted under this section does not affect a
32 contract, sale, encumbrance, or lease that was consummated
33 before the granting of the relief and involved a bona fide
34 purchaser, encumbrancer, or tenant who did not have actual
35 notice of the filing of a complaint under this chapter or a

1 civil action under this section.

2 8. a. On the request of the commission, the attorney
3 general may intervene in an action under this section if the
4 commission certifies that the case is of general public
5 importance.

6 b. The attorney general may obtain the same relief
7 available to the attorney general under subsection 9.

8 9. a. On the request of the commission, the attorney
9 general may file a civil action in district court for
10 appropriate relief if the commission has reasonable cause to
11 believe that any of the following applies:

12 (1) A person is engaged in a pattern or practice of
13 resistance to the full enjoyment of any housing right granted
14 by this chapter.

15 (2) A person has been denied any housing right granted by
16 this chapter and that denial raises an issue of general public
17 importance.

18 b. In an action under this section, the district court may
19 do any of the following:

20 (1) Order preventive relief, including a permanent or
21 temporary injunction, restraining order, or other order
22 against the person responsible for a violation of housing
23 rights as necessary to assure the full enjoyment of the
24 housing rights granted by this chapter.

25 (2) Order another appropriate relief, including the
26 awarding of monetary damages, reasonable attorney's fees, and
27 court costs.

28 (3) To vindicate the public interest, assess a civil
29 penalty against the respondent in an amount that does not
30 exceed any of the following:

31 (a) Fifty thousand dollars for a first violation.

32 (b) One hundred thousand dollars for a second or
33 subsequent violation.

34 c. A person may intervene in an action under this section
35 if the person is any of the following:

1 (1) An aggrieved person to the discriminatory housing or
2 real estate practice.

3 (2) A party to a mediation agreement concerning the
4 discriminatory housing or real estate practice.

5 10. The attorney general, on behalf of the commission or
6 other party at whose request a subpoena is issued, may enforce
7 the subpoena in appropriate proceedings in district court.

8 11. A court in a civil action brought under this section
9 or the commission in an administrative hearing under section
10 601A.15A, subsection 11, may award reasonable attorney's fees
11 to the prevailing party and assess court costs against the
12 nonprevailing party.

13 Sec. 10. NEW SECTION. 601A.20 EFFECT ON OTHER LAW.

14 1. This chapter does not affect a reasonable local or
15 state restriction on the maximum number of occupants permitted
16 to occupy a dwelling or restriction relating to health or
17 safety standards.

18 2. This chapter does not affect a requirement of
19 nondiscrimination in other state or federal law.

20 EXPLANATION

21 This bill provides additional procedures, civil remedies,
22 and a criminal penalty for unfair or discriminatory housing or
23 real estate practices. The Iowa civil rights commission may
24 issue subpoenas and order discovery in support of
25 investigations and hearings related to unfair or
26 discriminatory housing or real estate practices. The
27 commission may refer complaints to local agencies who are
28 recognized by the United States department of housing and
29 urban development as having ordinances enforcing fair housing
30 rights.

31 Under this bill, persons are prohibited from discriminating
32 on the basis of race, color, creed, sex, religion, national
33 origin, disability, or familial status with regard to
34 inspection, sale, or rental of dwellings. Discrimination also
35 includes refusal to permit reasonable modification of property

1 for disabled persons who will pay for the modification,
2 refusal to make reasonable accommodations in rules, policies,
3 practices, or services, and failure to include design and
4 construction standards to assist disabled persons in
5 multifamily dwellings constructed for first occupancy after
6 March 12, 1991.

7 A person who intentionally intimidates or uses force or a
8 threat of force to interfere with another person's housing
9 rights or business dealings relating to housing, is guilty of
10 a serious misdemeanor.

11 The commission may join a person as an additional
12 respondent to a housing discrimination complaint if during
13 investigation, evidence shows the person should be alleged to
14 have committed a discriminatory housing practice. Additional
15 procedures are provided to provide for mediation of
16 discrimination complaints. The commission may authorize civil
17 action for temporary or preliminary relief pending final
18 disposition of a complaint.

19 If the commission finds at a hearing that a respondent to a
20 complaint has engaged in a discriminatory housing or real
21 estate practice or is about to engage in a discriminatory
22 practice, the commission may order appropriate relief
23 including actual damages, reasonable attorney's fees, court
24 costs, and other injunctive or equitable relief. To vindicate
25 the public interest, the commission may also assess a civil
26 penalty up to \$50,000 depending on the respondent's prior
27 record of committed discriminatory practices. At the request
28 of the commission, the attorney general shall institute legal
29 proceedings to recover a civil penalty due from a respondent.
30 Moneys collected are to be credited to the fair housing fund.

31 Under the bill, a complainant, a respondent, or an
32 aggrieved person on whose behalf a complaint was filed may
33 elect to resolve the complaint by filing a civil action in the
34 district court. The election must take place within 20 days
35 after receipt of notice by the person or, in case of the

1 commission, within 20 days after the date the charge was
2 issued. An aggrieved person may file civil action within two
3 years after the termination of an alleged unfair housing
4 practice or breach of a mediation agreement. An aggrieved
5 person may also file a civil action for an unfair housing
6 practice without having filed a complaint with the commission
7 or without regard to status of the complaint. The bill also
8 provides that the attorney general shall represent an
9 aggrieved person if the person makes a timely election with
10 the commission. The district court may award monetary damages
11 in the same manner as the commission including actual damages,
12 reasonable attorney's fees, court costs, and civil penalties
13 to vindicate the public interest for persons with previous
14 records of committed discriminatory practices.

15 The bill also changes references in the exception
16 provisions concerning unfair or discriminatory practices in
17 housing in the Iowa civil rights Act of 1965, by providing
18 that rental or leasing of less than four rooms, rather than
19 six, within a single housing accommodation is exempted. A
20 similar change concerns a percentage change in the definition
21 of "housing for older persons."

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HOUSE FILE 656

H-3386

- 1 Amend House File 656 as follows:
2 1. Page 1, lines 4 and 5, by striking the words
3 "investigations and".
4 2. Page 9, by striking lines 3 through 32 and
5 inserting the following: "the commission may order
6 appropriate injunctive or equitable relief. The
7 commission shall not impose any monetary damages."
8 3. Page 9, line 33, by striking the letter "d"
9 and inserting the following: "b".
10 4. Page 10, line 3, by striking the word
11 "ELECTED".
12 5. Page 10, by striking lines 5 through 16.
13 6. Page 10, line 17, by striking the figure and
14 letter "2. a." and inserting the following: "1."
15 7. Page 10, line 24, by striking the letter "b"
16 and inserting the following: "2".
17 8. Page 10, line 30, by striking the letter "c"
18 and inserting the following: "3".
19 9. Page 10, line 35, by striking the letter "d"
20 and inserting the following: "4".
21 10. Page 11, line 5, by striking the letter "e"
22 and inserting the following: "5".
23 11. Page 11, by striking lines 12 through 15 and
24 inserting the following:
25 "1. a. If a claimant desires to claim money
26 damages on a claim pending before the commission, the
27 commission shall refer the pending matter to the
28 attorney general who, within thirty days after the
29 referral, shall file a civil action on behalf of the
30 aggrieved".

By McNEAL of Hardin
IVERSON of Wright

H-3386 FILED MARCH 28, 1991

Lost 4/4/91 (p 1098)

HOUSE FILE 656

H-3417

- 1 Amend House File 656 as follows:
2 1. Page 2, line 18, by striking the word "be" and
3 inserting the following: "are".

By SPEAR of Lee

H-3417 FILED APRIL 1, 1991

Adopted 4/4/91 (p 1097)

HOUSE FILE 656

H-3430

- 1 Amend House File 656 as follows:
2 1. Page 1, by striking lines 24 and 25 and
3 inserting the following:
4 "2. A person shall not represent to a person of a
5 particular race, color, creed, sex, religion, national
6 origin".

By SPEAR of Lee

H-3430 FILED APRIL 1, 1991

Adopted as amended by 3517 4/4 (p 1098)

HOUSE FILE 656

H-3492

- 1 Amend House File 656 as follows:
2 1. Page 1, by inserting before line 1 the
3 following:
4 "Section 1. Section 601A.2, subsection 6, Code
5 1991, is amended to read as follows:
6 8. "Familial status" means one or more individuals
7 under the age of eighteen domiciled with either one of
8 the following:
9 a. A parent or another person having legal custody
10 of the individual or individuals.
11 b. The designee of the parent or the other person
12 having custody of the individual or individuals, with
13 the written permission of the parent or other person.
14 c. A person who is pregnant or is in the process
15 of securing legal custody of the individual or
16 individuals."
17 2. Page 2, by inserting after line 16 the
18 following:
19 "In the case of a rental, a landlord may, where
20 reasonable to do so, condition permission for a
21 modification on the renter's agreement to restore the
22 interior of the premises to the condition that existed
23 before the modification, reasonable wear and tear
24 excepted."
25 3. Page 2, lines 22 and 23, by striking the word
26 and figures "March 12, 1991" and inserting the
27 following: "January 1, 1992".
28 4. Page 5, by inserting after line 3 the
29 following:
30 "Sec. ____ . Section 601A.12, subsection 4, Code
31 1991, is amended by striking the subsection."
32 5. Page 9, line 27, by inserting after the word
33 "same" the following: "natural".
34 6. By renumbering as necessary.

By BEATTY of Warren

H-3492 FILED APRIL 3, 1991

Adopted 4/4/91 (p. 1096)

HOUSE FILE 656

H-3485

- 1 Amend House File 656 as follows:
2 1. Page 1, line 18, by striking the words ", for
3 profit,".

By SPEAR of Lee

H-3485 FILED APRIL 3, 1991

Adopted 4/4 (1096)

HOUSE FILE 656

H-3517

- 1 Amend amendment H-3430, to House File 656 as
2 follows:
3 1. Page 1, line 6, by striking the word "origin"
4 and inserting the word "origin,".

By DODERER of Johnson

H-3517 FILED APRIL 4, 1991

ADOPTED BY UNANIMOUS CONSENT *(p. 1098)*

HOUSE FILE 656
BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

(SUCCESSOR TO HSB 198)

(As Amended and Passed by the House April 4, 1991)

Passed House, Date _____ Passed Senate, Date 5/6/91 (z. 1677)
Vote: Ayes _____ Nays _____ Vote: Ayes 47 Nays 0
Approved May 17, 1991

A BILL FOR

1 An Act relating to unfair or discriminatory practices in housing
2 and real estate, providing civil remedies, and a criminal
3 penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5

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House Amendments _____

7

Deleted Language *

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1 Section 1. Section 601A.2, subsection 8, Code 1991, is
2 amended to read as follows:

3 8. "Familial status" means one or more individuals under
4 the age of eighteen domiciled with either one of the
5 following:

6 a. A parent or another person having legal custody of the
7 individual or individuals.

8 b. The designee of the parent or the other person having
9 custody of the individual or individuals, with the written
10 permission of the parent or other person.

11 c. A person who is pregnant or is in the process of
12 securing legal custody of the individual or individuals.

13 Sec. 2. Section 601A.5, Code 1991, is amended by adding
14 the following new subsections:

15 NEW SUBSECTION. 13. To issue subpoenas and order
16 discovery as provided by this section in aid of investigations
17 and hearings of alleged unfair or discriminatory housing or
18 real property practices. The subpoenas and discovery may be
19 ordered to the same extent and are subject to the same
20 limitations as subpoenas and discovery in a civil action in
21 district court.

22 NEW SUBSECTION. 14. To defer proceedings and refer a
23 complaint to a local commission that has been recognized by
24 the United States department of housing and urban development
25 as having adopted ordinances providing fair housing rights and
26 remedies that are substantially equivalent to those granted
27 under federal law.

28 Sec. 3. NEW SECTION. 601A.8A ADDITIONAL UNFAIR OR
29 DISCRIMINATORY PRACTICES -- HOUSING.

*30 1. A person shall not induce or attempt to induce another
31 person to sell or rent a dwelling by representations regarding
32 the entry or prospective entry into a neighborhood of a person
33 of a particular race, color, creed, sex, religion, national
34 origin, disability, or familial status.

35 2. A person shall not represent to a person of a

1 particular race, color, creed, sex, religion, national origin,
2 disability, or familial status that a dwelling is not
3 available for inspection, sale, or rental when the dwelling is
4 available for inspection, sale, or rental.

5 3. a. A person shall not discriminate in the sale or
6 rental or otherwise make unavailable or deny a dwelling to a
7 buyer or renter because of a disability of any of the
8 following persons:

9 (1) That buyer or renter.

10 (2) A person residing in or intending to reside in that
11 dwelling after it is sold, rented, or made available.

12 (3) A person associated with that buyer or renter.

13 b. A person shall not discriminate against another person
14 in the terms, conditions, or privileges of sale or rental of a
15 dwelling or in the provision of services or facilities in
16 connection with the dwelling because of a disability of any of
17 the following persons:

18 (1) That person.

19 (2) A person residing in or intending to reside in that
20 dwelling after it is sold, rented, or made available.

21 (3) A person associated with that person.

22 c. For the purposes of this subsection only,
23 discrimination includes any of the following circumstances:

24 (1) A refusal to permit, at the expense of the disabled
25 person, reasonable modifications of existing premises occupied
26 or to be occupied by the person if the modifications are
27 necessary to afford the person full enjoyment of the premises.

28 In the case of a rental, a landlord may, where reasonable
29 to do so, condition permission for a modification on the
30 renter's agreement to restore the interior of the premises to
31 the condition that existed before the modification, reasonable
32 wear and tear excepted.

33 (2) A refusal to make reasonable accommodations in rules,
34 policies, practices, or services, when the accommodations are
35 necessary to afford the person equal opportunity to use and

1 enjoy a dwelling.

2 (3) In connection with the design and construction of
3 covered multifamily dwellings for first occupancy after
4 January 1, 1992, a failure to design and construct those
5 dwellings in a manner that meets the following requirements:

6 (a) The public use and common use portions of the
7 dwellings are readily accessible to and usable by disabled
8 persons.

9 (b) All doors designed to allow passage into and within
10 all premises within the dwellings are sufficiently wide to
11 allow passage by disabled persons in wheelchairs.

12 (c) All premises within the dwellings contain the
13 following features of adaptive design:

14 (i) An accessible route into and through the dwelling.

15 (ii) Light switches, electrical outlets, thermostats, and
16 other environmental controls in accessible locations.

17 (iii) Reinforcements in bathroom walls to allow later
18 installation of grab bars.

19 (iv) Usable kitchens and bathrooms so that a person in a
20 wheelchair can maneuver about the space.

21 d. Compliance with the appropriate requirements of the
22 American national standard for buildings and facilities pro-
23 viding accessibility and usability for physically handicapped
24 people, commonly cited as "ANSI A 117.1", satisfies the
25 requirements of paragraph "c", subparagraph (3), subparagraph
26 subdivision (c).

27 e. Nothing in this subsection requires that a dwelling be
28 made available to a person whose tenancy would constitute a
29 direct threat to the health or safety of other persons or
30 whose tenancy would result in substantial physical damage to
31 the property of others.

32 4. a. A person whose business includes engaging in resi-
33 dential real estate related transactions shall not
34 discriminate against a person in making a residential real
35 estate related transaction available or in terms or conditions

1 of a residential real estate related transaction because of
2 race, color, creed, sex, religion, national origin,
3 disability, or familial status.

4 b. For the purpose of this subsection, "residential real
5 estate related transaction" means any of the following:

6 (1) To make or purchase loans or provide other financial
7 assistance to purchase, construct, improve, repair, or
8 maintain a dwelling, or to secure residential real estate.

9 (2) To sell, broker, or appraise residential real estate.

10 5. A person shall not deny another person access to, or
11 membership or participation in, a multiple-listing service,
12 real estate brokers' organization or other service,
13 organization, or facility relating to the business of selling
14 or renting dwellings, or discriminate against a person in
15 terms or conditions of access, membership, or participation in
16 such organization because of race, color, creed, sex,
17 religion, national origin, disability, or familial status.

18 Sec. 4. NEW SECTION. 601A.11A HOUSING DISCRIMINATION,
19 THREAT OF FORCE OR INTIMIDATION -- PENALTY.

20 1. A person commits a public offense if the person,
21 whether or not acting under color of law, by force or threat
22 of force, intentionally intimidates or interferes with or
23 attempts to interfere with a person under any of the following
24 circumstances:

25 a. Because of the person's race, color, creed, sex,
26 religion, national origin, disability, or familial status, and
27 because the person is or has been selling, purchasing,
28 renting, occupying, or financing, contracting for, or
29 negotiating for the sale, purchase, rental, or occupation of
30 any dwelling, or applying for or participating in a service,
31 organization, or facility relating to the business of selling
32 or renting dwellings.

33 b. Because the person is or has been doing any of the
34 following:

35 (1) Participating, without discrimination because of race,

1 color, creed, sex, religion, national origin, disability, or
2 familial status, in an activity, service, organization, or
3 facility described in paragraph "a".

4 (2) Affording another person the opportunity or protection
5 to so participate.

6 (3) Lawfully aiding or encouraging other persons to
7 participate, without discrimination because of race, color,
8 creed, sex, religion, national origin, disability, or familial
9 status, in an activity, service, organization, or facility
10 described in paragraph "a".

11 2. A person violating this section is guilty of a serious
12 misdemeanor.

13 Sec. 5. Section 601A.12, subsection 3, Code 1991, is
14 amended to read as follows:

15 3. The rental or leasing of less than ~~six~~ four rooms
16 within a single housing accommodation by the occupant or owner
17 of such housing accommodation, if the occupant or owner or
18 members of that person's family reside therein in the
19 accommodation.

20 Sec. 6. Section 601A.12, subsection 4, Code 1991, is
21 amended by striking the subsection.

22 Sec. 7. Section 601A.12, subsection 6, paragraph a, Code
23 1991, is amended to read as follows:

24 a. For ~~ninety~~ eighty percent occupancy by at least one
25 person fifty-five years of age or older per unit, and
26 providing significant facilities and services specifically
27 designed to meet the physical or social needs of such persons.

28 Sec. 8. NEW SECTION. 601A.12A ADDITIONAL HOUSING
29 EXCEPTION.

30 Section 601A.8A does not prohibit a person engaged in the
31 business of furnishing appraisals of real estate from taking
32 into consideration factors other than race, color, creed, sex,
33 religion, national origin, disability, or familial status in
34 appraising real estate.

35 Sec. 9. NEW SECTION. 601A.15A ADDITIONAL PROCEEDINGS --

1 HOUSING DISCRIMINATION.

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

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

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

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

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

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

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

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

1 investigation.

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

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

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

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

17 4. a. The commission shall prepare a final investigative
18 report.

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

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

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

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

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

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

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

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

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

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

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

16 b. Not later than twenty days after the commission issues
17 a determination, the commission shall send a copy of the
18 determination with information concerning the election under
19 section 601A.16A to all of the following persons:

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

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

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

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

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

35 9. The commission shall not issue a determination under

1 this section regarding an alleged discriminatory housing or
2 real estate practice after the beginning of the trial of a
3 civil action commenced by the aggrieved party under federal or
4 state law seeking relief with respect to that discriminatory
5 housing or real estate practice.

6 10. a. If a timely election is not made under section
7 601A.16A, the commission shall provide for a hearing on the
8 charges in the complaint.

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

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

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

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

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

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

1 complaint.

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

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

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

21 Sec. 10. NEW SECTION. 601A.16A CIVIL ACTION ELECTED --
22 HOUSING.

23 1. a. A complainant, a respondent, or an aggrieved person
24 on whose behalf the complaint was filed may elect to have the
25 charges asserted in the complaint decided in a civil action as
26 provided by section 601A.17A.

27 b. The election must be made not later than twenty days
28 after the date of receipt by the electing person of service
29 under section 601A.15, subsection 5, or in the case of the
30 commission, not later than twenty days after the date the
31 determination was issued.

32 c. The person making the election shall give notice to the
33 commission and to all other complainants and respondents to
34 whom the election relates.

35 2. a. An aggrieved person may file a civil action in

1 district court not later than two years after the occurrence
2 of the termination of an alleged discriminatory housing or
3 real estate practice, or the breach of a mediation agreement
4 entered into under this chapter, whichever occurs last, to
5 obtain appropriate relief with respect to the discriminatory
6 housing or real estate practice or breach.

7 b. The two-year period does not include any time during
8 which an administrative hearing under this chapter is pending
9 with respect to a complaint or charge based on the
10 discriminatory housing or real estate practice. This
11 subsection does not apply to actions arising from a breach of
12 a mediation agreement.

13 c. An aggrieved person may file an action under this
14 section whether or not a discriminatory housing or real estate
15 complaint has been filed under section 601A.15A, and without
16 regard to the status of any discriminatory housing or real
17 estate complaint filed under that section.

18 d. If the commission has obtained a mediation agreement
19 with the consent of an aggrieved person, the aggrieved person
20 shall not file an action under this section with respect to
21 the alleged discriminatory practice that forms the basis for
22 the complaint except to enforce the terms of the agreement.

23 e. An aggrieved person shall not file an action under this
24 section with respect to an alleged discriminatory housing or
25 real estate practice that forms the basis of a charge issued
26 by the commission if the commission has begun a hearing on the
27 record under this chapter with respect to the charge.

28 Sec. 11. NEW SECTION. 601A.17A CIVIL PROCEEDINGS --
29 HOUSING.

30 1. a. If timely election is made under section 601A.16A,
31 subsection 1, the commission shall authorize, and not later
32 than thirty days after the election is made, the attorney
33 general shall file a civil action on behalf of the aggrieved
34 person in a district court seeking relief.

35 b. Venue for an action under this section is in the county

1 in which the alleged discriminatory housing or real estate
2 practice occurred.

3 c. An aggrieved person may intervene in the action.

4 d. If the district court finds that a discriminatory
5 housing or real estate practice has occurred or is about to
6 occur, the district court may grant as relief any relief that
7 a court may grant in a civil action under subsection 6.

8 e. If monetary relief is sought for the benefit of an
9 aggrieved person who does not intervene in the civil action,
10 the district court shall not award the monetary relief if that
11 aggrieved person has not complied with discovery orders
12 entered by the district court.

13 2. A commission order under section 601A.15A, subsection
14 11, does not affect a contract, sale, encumbrance, or lease
15 that was consummated before the commission issued the order
16 and involved a bona fide purchaser, encumbrancer, or tenant
17 who did not have actual notice of the charge issued under this
18 chapter.

19 3. If the commission issues an order with respect to a
20 discriminatory housing practice that occurred in the course of
21 a business subject to a licensing or regulation by a
22 governmental agency, the commission, not later than thirty
23 days after the date of issuance of the order, shall do all of
24 the following:

25 a. Send copies of the findings and the order to the
26 governmental agency.

27 b. Recommend to the governmental agency appropriate
28 disciplinary action.

29 4. If the commission issues an order against a respondent
30 against whom another order was issued within the preceding
31 five years under section 601A.15A, subsection 11, the
32 commission shall send a copy of each order issued under that
33 section to the attorney general.

34 5. On application by a person alleging a discriminatory
35 housing practice or by a person against whom a discriminatory

1 practice is alleged, the district court may appoint an
2 attorney for the person.

3 6. In an action under this section, if the district court
4 finds that a discriminatory housing or real estate practice
5 has occurred or is about to occur, the district court may
6 award or issue to the plaintiff one or more of the following:

7 a. Actual and punitive damages.

8 b. Reasonable attorney's fees.

9 c. Court costs.

10 d. Subject to subsection 7, any permanent or temporary
11 injunction, temporary restraining order, or other order,
12 including an order enjoining the defendant from engaging in
13 the practice or ordering appropriate affirmative action.

14 7. Relief granted under this section does not affect a
15 contract, sale, encumbrance, or lease that was consummated
16 before the granting of the relief and involved a bona fide
17 purchaser, encumbrancer, or tenant who did not have actual
18 notice of the filing of a complaint under this chapter or a
19 civil action under this section.

20 8. a. On the request of the commission, the attorney
21 general may intervene in an action under this section if the
22 commission certifies that the case is of general public
23 importance.

24 b. The attorney general may obtain the same relief
25 available to the attorney general under subsection 9.

26 9. a. On the request of the commission, the attorney
27 general may file a civil action in district court for
28 appropriate relief if the commission has reasonable cause to
29 believe that any of the following applies:

30 (1) A person is engaged in a pattern or practice of
31 resistance to the full enjoyment of any housing right granted
32 by this chapter.

33 (2) A person has been denied any housing right granted by
34 this chapter and that denial raises an issue of general public
35 importance.

1 b. In an action under this section, the district court may
2 do any of the following:

3 (1) Order preventive relief, including a permanent or
4 temporary injunction, restraining order, or other order
5 against the person responsible for a violation of housing
6 rights as necessary to assure the full enjoyment of the
7 housing rights granted by this chapter.

8 (2) Order another appropriate relief, including the
9 awarding of monetary damages, reasonable attorney's fees, and
10 court costs.

11 (3) To vindicate the public interest, assess a civil
12 penalty against the respondent in an amount that does not
13 exceed any of the following:

14 (a) Fifty thousand dollars for a first violation.

15 (b) One hundred thousand dollars for a second or
16 subsequent violation.

17 c. A person may intervene in an action under this section
18 if the person is any of the following:

19 (1) An aggrieved person to the discriminatory housing or
20 real estate practice.

21 (2) A party to a mediation agreement concerning the
22 discriminatory housing or real estate practice.

23 10. The attorney general, on behalf of the commission or
24 other party at whose request a subpoena is issued, may enforce
25 the subpoena in appropriate proceedings in district court.

26 11. A court in a civil action brought under this section
27 or the commission in an administrative hearing under section
28 601A.15A, subsection 11, may award reasonable attorney's fees
29 to the prevailing party and assess court costs against the
30 nonprevailing party.

31 Sec. 12. NEW SECTION. 601A.20 EFFECT ON OTHER LAW.

32 1. This chapter does not affect a reasonable local or
33 state restriction on the maximum number of occupants permitted
34 to occupy a dwelling or restriction relating to health or
35 safety standards.

1 2. This chapter does not affect a requirement of
2 nondiscrimination in other state or federal law.

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Beatty-Chair, Brammer, Showing

HSB 198

Judiciary & Law Enforcement

SENATE/HOUSE FILE 656

BY (PROPOSED IOWA CIVIL RIGHTS COMMISSION BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to unfair or discriminatory practices in housing
2 and real estate, providing civil remedies, and a criminal
3 penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 601A.5, Code 1991, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 13. To issue subpoenas and order
4 discovery as provided by this section in aid of investigations
5 and hearings of alleged unfair or discriminatory housing or
6 real property practices. The subpoenas and discovery may be
7 ordered to the same extent and are subject to the same
8 limitations as subpoenas and discovery in a civil action in
9 district court.

10 NEW SUBSECTION. 14. To defer proceedings and refer a
11 complaint to a local commission that has been recognized by
12 the United States department of housing and urban development
13 as having adopted ordinances providing fair housing rights and
14 remedies that are substantially equivalent to those granted
15 under federal law.

16 Sec. 2. NEW SECTION. 601A.8A ADDITIONAL UNFAIR OR
17 DISCRIMINATORY PRACTICES -- HOUSING.

18 1. A person shall not, for profit, induce or attempt to
19 induce another person to sell or rent a dwelling by
20 representations regarding the entry or prospective entry into
21 a neighborhood of a person of a particular race, color, creed,
22 sex, religion, national origin, disability, or familial
23 status.

24 2. A person shall not represent to another person because
25 of race, color, creed, sex, religion, national origin,
26 disability, or familial status that a dwelling is not
27 available for inspection, sale, or rental when the dwelling is
28 available for inspection.

29 3. a. A person shall not discriminate in the sale or
30 rental or otherwise make unavailable or deny a dwelling to a
31 buyer or renter because of a disability of any of the
32 following persons:

33 (1) That buyer or renter.

34 (2) A person residing in or intending to reside in that
35 dwelling after it is sold, rented, or made available.

1 (3) A person associated with that buyer or renter.

2 b. A person shall not discriminate against another person
3 in the terms, conditions, or privileges of sale or rental of a
4 dwelling or in the provision of services or facilities in
5 connection with the dwelling because of a disability of any of
6 the following persons:

7 (1) That person.

8 (2) A person residing in or intending to reside in that
9 dwelling after it is sold, rented, or made available.

10 (3) A person associated with that person.

11 c. For the purposes of this subsection only,
12 discrimination includes any of the following circumstances:

13 (1) A refusal to permit, at the expense of the disabled
14 person, reasonable modifications of existing premises occupied
15 or to be occupied by the person if the modifications are
16 necessary to afford the person full enjoyment of the premises.

17 (2) A refusal to make reasonable accommodations in rules,
18 policies, practices, or services, when the accommodations be
19 necessary to afford the person equal opportunity to use and
20 enjoy a dwelling.

21 (3) In connection with the design and construction of
22 covered multifamily dwellings for first occupancy after March
23 12, 1991, a failure to design and construct those dwellings in
24 a manner that meets the following requirements:

25 (a) The public use and common use portions of the
26 dwellings are readily accessible to and usable by disabled
27 persons.

28 (b) All doors designed to allow passage into and within
29 all premises within the dwellings are sufficiently wide to
30 allow passage by disabled persons in wheelchairs.

31 (c) All premises within the dwellings contain the
32 following features of adaptive design:

33 (i) An accessible route into and through the dwelling.

34 (ii) Light switches, electrical outlets, thermostats, and
35 other environmental controls in accessible locations.

1 (iii) Reinforcements in bathroom walls to allow later
2 installation of grab bars.

3 (iv) Usable kitchens and bathrooms so that a person in a
4 wheelchair can maneuver about the space.

5 d. Compliance with the appropriate requirements of the
6 American national standard for buildings and facilities pro-
7 viding accessibility and usability for physically handicapped
8 people, commonly cited as "ANSI A 117.1", satisfies the
9 requirements of paragraph "c", subparagraph (3), subparagraph
10 subdivision (c).

11 e. Nothing in this subsection requires that a dwelling be
12 made available to a person whose tenancy would constitute a
13 direct threat to the health or safety of other persons or
14 whose tenancy would result in substantial physical damage to
15 the property of others.

16 4. a. A person whose business includes engaging in resi-
17 dential real estate related transactions shall not
18 discriminate against a person in making a residential real
19 estate related transaction available or in terms or conditions
20 of a residential real estate related transaction because of
21 race, color, creed, sex, religion, national origin,
22 disability, or familial status.

23 b. For the purpose of this subsection, "residential real
24 estate related transaction" means any of the following:

25 (1) To make or purchase loans or provide other financial
26 assistance to purchase, construct, improve, repair, or
27 maintain a dwelling, or to secure residential real estate.

28 (2) To sell, broker, or appraise residential real estate.

29 5. A person shall not deny another person access to, or
30 membership or participation in, a multiple-listing service,
31 real estate brokers' organization or other service,
32 organization, or facility relating to the business of selling
33 or renting dwellings, or discriminate against a person in
34 terms or conditions of access, membership, or participation in
35 such organization because of race, color, creed, sex,

1 religion, national origin, disability, or familial status.

2 Sec. 3. NEW SECTION. 601A.11A HOUSING DISCRIMINATION,
3 THREAT OF FORCE OR INTIMIDATION -- PENALTY.

4 1. A person commits a public offense if the person,
5 whether or not acting under color of law, by force or threat
6 of force, intentionally intimidates or interferes with or
7 attempts to interfere with a person under any of the following
8 circumstances:

9 a. Because of the person's race, color, creed, sex,
10 religion, national origin, disability, or familial status, and
11 because the person is or has been selling, purchasing,
12 renting, occupying, or financing, contracting for, or
13 negotiating for the sale, purchase, rental, or occupation of
14 any dwelling, or applying for or participating in a service,
15 organization, or facility relating to the business of selling
16 or renting dwellings.

17 b. Because the person is or has been doing any of the
18 following:

19 (1) Participating, without discrimination because of race,
20 color, creed, sex, religion, national origin, disability, or
21 familial status, in an activity, service, organization, or
22 facility described in paragraph "a".

23 (2) Affording another person the opportunity or protection
24 to so participate.

25 (3) Lawfully aiding or encouraging other persons to
26 participate, without discrimination because of race, color,
27 creed, sex, religion, national origin, disability, or familial
28 status, in an activity, service, organization, or facility
29 described in paragraph "a".

30 2. A person violating this section is guilty of a serious
31 misdemeanor.

32 Sec. 4. NEW SECTION. 601A.12A ADDITIONAL HOUSING
33 EXCEPTION.

34 Section 601A.8A does not prohibit a person engaged in the
35 business of furnishing appraisals of real estate from taking

1 into consideration factors other than race, color, creed, sex,
2 religion, national origin, disability, or familial status in
3 appraising real estate.

4 Sec. 5. NEW SECTION. 601A.15A ADDITIONAL PROCEEDINGS --
5 HOUSING DISCRIMINATION.

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

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

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

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

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

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

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

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

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

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

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

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

21 4. a. The commission shall prepare a final investigative
22 report.

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

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

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

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

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

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

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

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

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

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

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

20 b. Not later than twenty days after the commission issues
21 a determination, the commission shall send a copy of the
22 determination with information concerning the election under
23 section 601A.16A to all of the following persons:

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

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

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

33 8. a. If the commission determines that no probable cause
34 exists to believe that a discriminatory housing or real estate
35 practice has occurred or is about to occur, the commission

1 shall promptly dismiss the complaint.

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

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

10 10. a. If a timely election is not made under section
11 601A.16A, the commission shall provide for a hearing on the
12 charges in the complaint.

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

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

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

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

31 (1) Ten thousand dollars if the respondent has been
32 adjudged by the order of the commission or a court to have
33 committed a prior discriminatory housing or real estate
34 practice.

35 (2) Except as provided by paragraph "c", twenty-five

1 thousand dollars if the respondent has been adjudged by order
2 of the commission or a court to have committed one other
3 discriminatory housing or real estate practice during the
4 five-year period ending on the date of the filing of the
5 complaint.

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

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

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

25 Sec. 6. NEW SECTION. 601A.16A CIVIL ACTION ELECTED --
26 HOUSING.

27 1. a. A complainant, a respondent, or an aggrieved person
28 on whose behalf the complaint was filed may elect to have the
29 charges asserted in the complaint decided in a civil action as
30 provided by section 601A.17A.

31 b. The election must be made not later than twenty days
32 after the date of receipt by the electing person of service
33 under section 601A.15, subsection 5, or in the case of the
34 commission, not later than twenty days after the date the
35 charge was issued.

1 c. The person making the election shall give notice to the
2 commission and to all other complainants and respondents to
3 whom the election relates.

4 2. a. An aggrieved person may file a civil action in
5 district court not later than two years after the occurrence
6 of the termination of an alleged discriminatory housing or
7 real estate practice, or the breach of a mediation agreement
8 entered into under this chapter, whichever occurs last, to
9 obtain appropriate relief with respect to the discriminatory
10 housing or real estate practice or breach.

11 b. The two-year period does not include any time during
12 which an administrative hearing under this chapter is pending
13 with respect to a complaint or charge based on the
14 discriminatory housing or real estate practice. This
15 subsection does not apply to actions arising from a breach of
16 a mediation agreement.

17 c. An aggrieved person may file an action under this
18 section whether or not a discriminatory housing or real estate
19 complaint has been filed under section 601A.15A, and without
20 regard to the status of any discriminatory housing or real
21 estate complaint filed under that section.

22 d. If the commission has obtained a mediation agreement
23 with the consent of an aggrieved person, the aggrieved person
24 shall not file an action under this section with respect to
25 the alleged discriminatory practice that forms the basis for
26 the complaint except to enforce the terms of the agreement.

27 e. An aggrieved person shall not file an action under this
28 section with respect to an alleged discriminatory housing or
29 real estate practice that forms the basis of a charge issued
30 by the commission if the commission has begun a hearing on the
31 record under this chapter with respect to the charge.

32 Sec. 7. NEW SECTION. 601A.17A CIVIL PROCEEDINGS --
33 HOUSING.

34 1. a. If timely election is made under section 601A.16A,
35 subsection 1, the commission shall authorize, and not later

1 than thirty days after the election is made, the attorney
2 general shall file a civil action on behalf of the aggrieved
3 person in a district court seeking relief.

4 b. Venue for an action under this section is in the county
5 in which the alleged discriminatory housing or real estate
6 practice occurred.

7 c. An aggrieved person may intervene in the action.

8 d. If the district court finds that a discriminatory
9 housing or real estate practice has occurred or is about to
10 occur, the district court may grant as relief any relief that
11 a court may grant in a civil action under subsection 6.

12 e. If monetary relief is sought for the benefit of an
13 aggrieved person who does not intervene in the civil action,
14 the district court shall not award the monetary relief if that
15 aggrieved person has not complied with discovery orders
16 entered by the district court.

17 2. A commission order under section 601A.15A, subsection
18 11, does not affect a contract, sale, encumbrance, or lease
19 that was consummated before the commission issued the order
20 and involved a bona fide purchaser, encumbrancer, or tenant
21 who did not have actual notice of the charge issued under this
22 chapter.

23 3. If the commission issues an order with respect to a
24 discriminatory housing practice that occurred in the course of
25 a business subject to a licensing or regulation by a
26 governmental agency, the commission, not later than thirty
27 days after the date of issuance of the order, shall do all of
28 the following:

29 a. Send copies of the findings and the order to the
30 governmental agency.

31 b. Recommend to the governmental agency appropriate
32 disciplinary action.

33 4. If the commission issues an order against a respondent
34 against whom another order was issued within the preceding
35 five years under section 601A.15A, subsection 11, the

1 commission shall send a copy of each order issued under that
2 section to the attorney general.

3 5. On application by a person alleging a discriminatory
4 housing practice or by a person against whom a discriminatory
5 practice is alleged, the district court may appoint an
6 attorney for the person.

7 6. In an action under this section, if the district court
8 finds that a discriminatory housing or real estate practice
9 has occurred or is about to occur, the district court may
10 award or issue to the plaintiff one or more of the following:

11 a. Actual and punitive damages.

12 b. Reasonable attorney's fees.

13 c. Court costs.

14 d. Subject to subsection 7, any permanent or temporary
15 injunction, temporary restraining order, or other order,
16 including an order enjoining the defendant from engaging in
17 the practice or ordering appropriate affirmative action.

18 7. Relief granted under this section does not affect a
19 contract, sale, encumbrance, or lease that was consummated
20 before the granting of the relief and involved a bona fide
21 purchaser, encumbrancer, or tenant who did not have actual
22 notice of the filing of a complaint under this chapter or a
23 civil action under this section.

24 8. a. On the request of the commission, the attorney
25 general may intervene in an action under this section if the
26 commission certifies that the case is of general public
27 importance.

28 b. The attorney general may obtain the same relief
29 available to the attorney general under subsection 9.

30 9. a. On the request of the commission, the attorney
31 general may file a civil action in district court for
32 appropriate relief if the commission has reasonable cause to
33 believe that any of the following applies:

34 (1) A person is engaged in a pattern or practice of
35 resistance to the full enjoyment of any housing right granted

1 by this chapter.

2 (2) A person has been denied any housing right granted by
3 this chapter and that denial raises an issue of general public
4 importance.

5 b. In an action under this section, the district court may
6 do any of the following:

7 (1) Order preventive relief, including a permanent or
8 temporary injunction, restraining order, or other order
9 against the person responsible for a violation of housing
10 rights as necessary to assure the full enjoyment of the
11 housing rights granted by this chapter.

12 (2) Order another appropriate relief, including the
13 awarding of monetary damages, reasonable attorney's fees, and
14 court costs.

15 (3) To vindicate the public interest, assess a civil
16 penalty against the respondent in an amount that does not
17 exceed any of the following:

18 (a) Fifty thousand dollars for a first violation.

19 (b) One hundred thousand dollars for a second or
20 subsequent violation.

21 c. A person may intervene in an action under this section
22 if the person is any of the following:

23 (1) An aggrieved person to the discriminatory housing or
24 real estate practice.

25 (2) A party to a mediation agreement concerning the
26 discriminatory housing or real estate practice.

27 10. The attorney general, on behalf of the commission or
28 other party at whose request a subpoena is issued, may enforce
29 the subpoena in appropriate proceedings in district court.

30 11. A court in a civil action brought under this section
31 or the commission in an administrative hearing under section
32 601A.15A, subsection 11, may award reasonable attorney's fees
33 to the prevailing party and assess court costs against the
34 nonprevailing party.

35 Sec. 8. NEW SECTION. 601A.20 EFFECT ON OTHER LAW.

1 1. This chapter does not affect a reasonable local or
2 state restriction on the maximum number of occupants permitted
3 to occupy a dwelling or restriction relating to health or
4 safety standards.

5 2. This chapter does not affect a requirement of
6 nondiscrimination in other state or federal law.

7 EXPLANATION

8 This bill provides additional procedures, civil remedies,
9 and a criminal penalty for unfair or discriminatory housing or
10 real estate practices. The Iowa civil rights commission may
11 issue subpoenas and order discovery in support of
12 investigations and hearings related to unfair or
13 discriminatory housing or real estate practices. The
14 commission may refer complaints to local agencies who are
15 recognized by the United States department of housing and
16 urban development as having ordinances enforcing fair housing
17 rights.

18 Under this bill, persons are prohibited from discriminating
19 on the basis of race, color, creed, sex, religion, national
20 origin, disability, or familial status with regard to
21 inspection, sale, or rental of dwellings. Discrimination also
22 includes refusal to permit reasonable modification of property
23 for disabled persons who will pay for the modification,
24 refusal to make reasonable accommodations in rules, policies,
25 practices, or services, and failure to include design and
26 construction standards to assist disabled persons in
27 multifamily dwellings constructed for first occupancy after
28 March 12, 1991.

29 A person who intentionally intimidates or uses force or a
30 threat of force to interfere with another person's housing
31 rights or business dealings relating to housing, is guilty of
32 a serious misdemeanor.

33 The commission may join a person as an additional
34 respondent to a housing discrimination complaint if during
35 investigation, evidence shows the person should be alleged to

1 have committed a discriminatory housing practice. Additional
2 procedures are provided to provide for mediation of
3 discrimination complaints. The commission may authorize civil
4 action for temporary or preliminary relief pending final
5 disposition of a complaint.

6 If the commission finds at a hearing that a respondent to a
7 complaint has engaged in a discriminatory housing or real
8 estate practice or is about to engage in a discriminatory
9 practice, the commission may order appropriate relief
10 including actual damages, reasonable attorney's fees, court
11 costs, and other injunctive or equitable relief. To vindicate
12 the public interest, the commission may also assess a civil
13 penalty up to \$50,000 depending on the respondent's prior
14 record of committed discriminatory practices. At the request
15 of the commission, the attorney general shall institute legal
16 proceedings to recover a civil penalty due from a respondent.
17 Moneys collected are to be credited to the fair housing fund.

18 Under the bill, a complainant, a respondent, or an
19 aggrieved person on whose behalf a complaint was filed may
20 elect to resolve the complaint by filing a civil action in the
21 district court. The election must take place within 20 days
22 after receipt of notice by the person or, in case of the
23 commission, within 20 days after the date the charge was
24 issued. An aggrieved person may file civil action within two
25 years after the termination of an alleged unfair housing
26 practice or breach of a mediation agreement. An aggrieved
27 person may also file a civil action for an unfair housing
28 practice without having filed a complaint with the commission
29 or without regard to status of the complaint. The bill also
30 provides that the attorney general shall represent an
31 aggrieved person if the person makes a timely election with
32 the commission. The district court may award monetary damages
33 in the same manner as the commission including actual damages,
34 reasonable attorney's fees, court costs, and civil penalties
35 to vindicate the public interest for persons with previous

1 records of committed discriminatory practices.

2 BACKGROUND STATEMENT

3 SUBMITTED BY THE AGENCY

4 This bill includes the changes in Iowa civil rights housing
5 law which are needed in order to be considered "substantially
6 equivalent" to the federal Fair Housing Amendments of 1988.
7 The department of housing and urban development (HUD) rules
8 implementing these amendments require that the Iowa civil
9 rights housing law be certified as "substantially equivalent"
10 by January 13, 1992. If this does not occur, the civil rights
11 commission will no longer be eligible to receive funds from
12 HUD. The civil rights commission has received a contract for
13 \$96,500 in 1991 funds for case processing, training, and
14 incentive projects. The commission has also received a grant
15 in the amount of \$75,000 for a twelve-month fair housing
16 initiative. HUD is also in the final stages of reviewing a
17 \$125,000 extension of our current two-year \$198,000 computer
18 expert system grant. Failure to enact this legislation would
19 eliminate this funding from the civil rights commission's
20 budget.

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deed, referee's deed, assignee's deed or sheriff's deed which has been recorded in the office of the recorder of the county or counties in this state in which the land described in the deed is situated prior to January 1, ~~1970~~ 1980, unless the action is commenced prior to January 1, ~~1981~~ 1992, and if an action to set aside, cancel, annul, declare void or invalid, or to redeem from the deed is not commenced prior to January 1, ~~1981~~ 1992, then the deed and all the proceedings upon which the deed is based are valid and unimpeachable and effective to convey title as stated in the deed, without exception for infancy, mental illness, absence from the state, or other disability or cause, provided that this section and section 614.23 do not apply to real property described in a deed which is not on July 1, ~~1980~~ 1991, in the possession of those claiming title under the deed.

2. On and after January 1, 1992, an action shall not be maintained to set aside, cancel, annul, or void a deed, and an action shall not be maintained to redeem from such deed, if the deed has been recorded in the office of the recorder for more than ten years. The deed must be recorded in the office of the recorder of the county or counties in which the land described in the deed is situated. If an action under this subsection is not commenced within ten years of the recording of the deed, then the deed and all proceedings upon which the deed is based are valid and unimpeachable and effective to convey title as stated in the deed, without exception for infancy, mental illness, absence from the state, or other disability or cause. As used in this subsection "deed" means a tax deed, guardian's deed, executor's deed, administrator's deed, receiver's deed, referee's deed, assignee's deed, or sheriff's deed.

However, this subsection and section 614.23 do not apply to real property described in any deed which is for more than ten years in the possession of a person claiming title under the deed.

Sec 40. Section 589.20, Code 1991, is repealed.

Approved May 17, 1991

CHAPTER 184

DISCRIMINATORY PRACTICES IN HOUSING AND REAL ESTATE

H.F. 656

AN ACT relating to unfair or discriminatory practices in housing and real estate, providing civil remedies, and a criminal penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 601A 2, subsection 8, Code 1991, is amended to read as follows:

8. "Familial status" means one or more individuals under the age of eighteen domiciled with either one of the following:

- a. A parent or another person having legal custody of the individual or individuals.
- b. The designee of the parent or the other person having custody of the individual or individuals, with the written permission of the parent or other person.
- c. A person who is pregnant or is in the process of securing legal custody of the individual or individuals.

Sec. 2. Section 601A 5, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 13. To issue subpoenas and order discovery as provided by this section in aid of investigations and hearings of alleged unfair or discriminatory housing or real property practices. The subpoenas and discovery may be ordered to the same extent and are subject to the same limitations as subpoenas and discovery in a civil action in district court

NEW SUBSECTION. 14. To defer proceedings and refer a complaint to a local commission that has been recognized by the United States department of housing and urban development as having adopted ordinances providing fair housing rights and remedies that are substantially equivalent to those granted under federal law.

Sec. 3. NEW SECTION. 601A.8A ADDITIONAL UNFAIR OR DISCRIMINATORY PRACTICES - HOUSING.

1. A person shall not induce or attempt to induce another person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, creed, sex, religion, national origin, disability, or familial status.

2. A person shall not represent to a person of a particular race, color, creed, sex, religion, national origin, disability, or familial status that a dwelling is not available for inspection, sale, or rental when the dwelling is available for inspection, sale, or rental.

3. a. A person shall not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to a buyer or renter because of a disability of any of the following persons:

(1) That buyer or renter.

(2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.

(3) A person associated with that buyer or renter.

b. A person shall not discriminate against another person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of any of the following persons:

(1) That person.

(2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available.

(3) A person associated with that person.

c. For the purposes of this subsection only, discrimination includes any of the following circumstances:

(1) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford the person full enjoyment of the premises.

In the case of a rental, a landlord may, where reasonable to do so, condition permission for a modification on the renter's agreement to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling.

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after January 1, 1992, a failure to design and construct those dwellings in a manner that meets the following requirements:

(a) The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons.

(b) All doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs.

(c) All premises within the dwellings contain the following features of adaptive design:

(i) An accessible route into and through the dwelling.

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

(iii) Reinforcements in bathroom walls to allow later installation of grab bars.

(iv) Usable kitchens and bathrooms so that a person in a wheelchair can maneuver about the space.

d. Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as "ANSI A 117.1", satisfies the requirements of paragraph "c", subparagraph (3), subparagraph subdivision (c).

e. Nothing in this subsection requires that a dwelling be made available to a person whose tenancy would constitute a direct threat to the health or safety of other persons or whose tenancy would result in substantial physical damage to the property of others.

4. a. A person whose business includes engaging in residential real estate related transactions shall not discriminate against a person in making a residential real estate related transaction available or in terms or conditions of a residential real estate related transaction because of race, color, creed, sex, religion, national origin, disability, or familial status.

b. For the purpose of this subsection, "residential real estate related transaction" means any of the following:

(1) To make or purchase loans or provide other financial assistance to purchase, construct, improve, repair, or maintain a dwelling, or to secure residential real estate.

(2) To sell, broker, or appraise residential real estate.

5. A person shall not deny another person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in terms or conditions of access, membership, or participation in such organization because of race, color, creed, sex, religion, national origin, disability, or familial status.

Sec. 4. NEW SECTION. 601A.11A HOUSING DISCRIMINATION, THREAT OF FORCE OR INTIMIDATION — PENALTY.

1. A person commits a public offense if the person, whether or not acting under color of law, by force or threat of force, intentionally intimidates or interferes with or attempts to interfere with a person under any of the following circumstances:

a. Because of the person's race, color, creed, sex, religion, national origin, disability, or familial status, and because the person is or has been selling, purchasing, renting, occupying, or financing, contracting for, or negotiating for the sale, purchase, rental, or occupation of any dwelling, or applying for or participating in a service, organization, or facility relating to the business of selling or renting dwellings.

b. Because the person is or has been doing any of the following:

(1) Participating, without discrimination because of race, color, creed, sex, religion, national origin, disability, or familial status, in an activity, service, organization, or facility described in paragraph "a".

(2) Affording another person the opportunity or protection to so participate.

(3) Lawfully aiding or encouraging other persons to participate, without discrimination because of race, color, creed, sex, religion, national origin, disability, or familial status, in an activity, service, organization, or facility described in paragraph "a".

2. A person violating this section is guilty of a serious misdemeanor.

Sec. 5. Section 601A.12, subsection 3, Code 1991, is amended to read as follows:

3. The rental or leasing of less than ~~six~~ four rooms within a single housing accommodation by the occupant or owner of such housing accommodation, if the occupant or owner or members of that person's family reside ~~therein~~ in the accommodation.

Sec. 6. Section 601A.12, subsection 4, Code 1991, is amended by striking the subsection.

Sec. 7. Section 601A.12, subsection 6, paragraph a, Code 1991, is amended to read as follows:

a. For ~~ninety~~ eighty percent occupancy by at least one person fifty-five years of age or older per unit, and providing significant facilities and services specifically designed to meet the physical or social needs of such persons.

Sec. 8. **NEW SECTION. 601A.12A ADDITIONAL HOUSING EXCEPTION.**

Section 601A.8A does not prohibit a person engaged in the business of furnishing appraisals of real estate from taking into consideration factors other than race, color, creed, sex, religion, national origin, disability, or familial status in appraising real estate.

Sec. 9. NEW SECTION. 601A.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 discrimination 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.

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 601A.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 601A.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.

Sec 10. NEW SECTION. 601A.16A CIVIL ACTION ELECTED — HOUSING.

1. a. A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the charges asserted in the complaint decided in a civil action as provided by section 601A.17A.

b. The election must be made not later than twenty days after the date of receipt by the electing person of service under section 601A.15, subsection 5, or in the case of the commission, not later than twenty days after the date the determination was issued.

c. The person making the election shall give notice to the commission and to all other complainants and respondents to whom the election relates.

2. a. An aggrieved person may file a civil action in district court not later than* two years after the occurrence of the termination of an alleged discriminatory housing or real estate practice or the breach of a mediation agreement entered into under this chapter, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing or real estate practice or breach.

b. The two-year period does not include any time during which an administrative hearing under this chapter is pending with respect to a complaint or charge based on the discriminatory housing or real estate practice. This subsection does not apply to actions arising from a breach of a mediation agreement.

c. An aggrieved person may file an action under this section whether or not a discriminatory housing or real estate complaint has been filed under section 601A.15A, and without regard to the status of any discriminatory housing or real estate complaint filed under that section.

d. If the commission has obtained a mediation agreement with the consent of an aggrieved person, the aggrieved person shall not file an action under this section with respect to the alleged discriminatory practice that forms the basis for the complaint except to enforce the terms of the agreement.

e. An aggrieved person shall not file an action under this section with respect to an alleged discriminatory housing or real estate practice that forms the basis of a charge issued by the commission if the commission has begun a hearing on the record under this chapter with respect to the charge.

Sec. 11. NEW SECTION. 601A.17A CIVIL PROCEEDINGS — HOUSING.

1. a. If timely election is made under section 601A.16A, subsection 1, the commission shall authorize, and not later than thirty days after the election is made, the attorney general shall file a civil action on behalf of the aggrieved person in a district court seeking relief.

b. Venue for an action under this section is in the county in which the alleged discriminatory housing or real estate practice occurred.

c. An aggrieved person may intervene in the action.

d. If the district court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the district court may grant as relief any relief that a court may grant in a civil action under subsection 6.

e. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the district court shall not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the district court.

2. A commission order under section 601A.15A, subsection 11, does not affect a contract, sale, encumbrance, or lease that was consummated before the commission issued the order and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the charge issued under this chapter.

3. If the commission issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the commission, not later than thirty days after the date of issuance of the order, shall do all of the following:

a. Send copies of the findings and the order to the governmental agency.

b. Recommend to the governmental agency appropriate disciplinary action.

* This probably intended

4. If the commission issues an order against a respondent against whom another order was issued within the preceding five years under section 601A.15A, subsection 11, the commission shall send a copy of each order issued under that section to the attorney general.

5. On application by a person alleging a discriminatory housing practice or by a person against whom a discriminatory practice is alleged, the district court may appoint an attorney for the person.

6. In an action under this section, if the district court finds that a discriminatory housing or real estate practice has occurred or is about to occur, the district court may award or issue to the plaintiff one or more of the following:

- a. Actual and punitive damages.
- b. Reasonable attorney's fees.
- c. Court costs.

d. Subject to subsection 7, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.

7. Relief granted under this section does not affect a contract, sale, encumbrance, or lease that was consummated before the granting of the relief and involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the filing of a complaint under this chapter or a civil action under this section.

8. a. On the request of the commission, the attorney general may intervene in an action under this section if the commission certifies that the case is of general public importance.

b. The attorney general may obtain the same relief available to the attorney general under subsection 9.

9. a. On the request of the commission, the attorney general may file a civil action in district court for appropriate relief if the commission has reasonable cause to believe that any of the following applies:

(1) A person is engaged in a pattern or practice of resistance to the full enjoyment of any housing right granted by this chapter.

(2) A person has been denied any housing right granted by this chapter and that denial raises an issue of general public importance.

b. In an action under this section, the district court may do any of the following:

(1) Order preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of housing rights as necessary to assure the full enjoyment of the housing rights granted by this chapter.

(2) Order another appropriate relief, including the awarding of monetary damages, reasonable attorney's fees, and court costs.

(3) To vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed any of the following:

(a) Fifty thousand dollars for a first violation.

(b) One hundred thousand dollars for a second or subsequent violation.

c. A person may intervene in an action under this section if the person is any of the following:

(1) An aggrieved person to the discriminatory housing or real estate practice.

(2) A party to a mediation agreement concerning the discriminatory housing or real estate practice.

10. The attorney general, on behalf of the commission or other party at whose request a subpoena is issued, may enforce the subpoena in appropriate proceedings in district court.

11. A court in a civil action brought under this section or the commission in an administrative hearing under section 601A.15A, subsection 11, may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party.

Sec. 12. NEW SECTION. 601A.20 EFFECT ON OTHER LAW.

1. This chapter does not affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling or restriction relating to health or safety standards.

2 This chapter does not affect a requirement of nondiscrimination in other state or federal law.

Approved May 17, 1991

CHAPTER 185

DISTRICT COURT CLERK - REPORTING REQUIREMENT DELETED

S.F. 102

AN ACT eliminating the requirement that the clerk of the district court file an annual report with the treasurer of state on certain fines, penalties, forfeitures, and recognizances.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 666.6, Code 1991, is amended to read as follows:

666.6 ANNUAL REPORT OF OUTSTANDING FINES, PENALTIES, FORFEITURES, AND RECOGNIZANCES.

The clerk of the district court shall make an annual report in writing to the treasurer of state and the state court administrator no later than January 15 of the fines, penalties, forfeitures, and recognizances which have not been paid, remitted, canceled, or otherwise satisfied during the previous calendar year.

Approved May 21, 1991

CHAPTER 186

URBAN RENEWAL AND URBAN REVITALIZATION

S.F. 547

AN ACT relating to housing and residential development within certain urban renewal areas and to tax exemption schedules for revitalization areas and providing an applicability date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 403.2, subsection 3, Code 1991, is amended to read as follows:

3. It is further found and declared that there exists in this state the continuing need for programs to alleviate and prevent conditions of unemployment; and that it is accordingly necessary to assist and retain local industries and commercial enterprises to strengthen and revitalize the economy of this state and its municipalities; that accordingly it is necessary to provide means and methods for the encouragement and assistance of industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in this state and its municipalities and for the provision of housing and residential development for low and moderate income families; that accordingly it is necessary to authorize local governing bodies to designate areas of a municipality as economic development areas for commercial and industrial enterprises or housing and residential development for low and moderate income families; and that it is also necessary to encourage the location and expansion of commercial enterprises to more