CHAPTER 80--H.F.No. 1542

An act relating to human rights; changing provisions for actions involving architectural barriers; amending Minnesota Statutes 2016, sections 363A.28, subdivision 3; 363A.331, subdivisions 2, 5, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2016, section 363A.28, subdivision 3, is amended to read:

Subd. 3. **For filing claim; filing options.** (a) A claim of an unfair discriminatory practice must be brought as a civil action pursuant to section 363A.33, subdivision 1, filed in a charge with a local commission pursuant to section 363A.07, subdivision 3, or filed in a charge with the commissioner within one year after the occurrence of the practice.

(b) The running of the one-year limitation period is suspended during the time a potential charging party and respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under this chapter, including arbitration, conciliation, mediation or grievance procedures pursuant to a collective bargaining agreement or statutory, charter, ordinance provisions for a civil service or other employment system or a school board sexual harassment or sexual violence policy. A potential respondent who participates in such a process with a potential charging party before a charge is filed or a civil action is brought shall notify the department and the charging party in writing of the participation in the process and the date the process commenced and shall also notify the department and the charging party of the ending date of the process. A respondent who fails to provide this notification is barred from raising the defense that the statute of limitations has run unless one year plus a period of time equal to the suspension period has passed.

(c) The running of the one-year limitation period is suspended during the applicable time period ~~provided for in the notice~~ under section 363A.331, subdivision 2, during which a civil action may not be brought.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2016, section 363A.331, subdivision 2, is amended to read:

Subd. 2. **Notice of architectural barrier.** (a) ~~A notice sent before filing a civil action with the court by an attorney representing a person who alleges that a business establishment or place of public accommodation has violated an accessibility requirement under law~~ Before bringing a civil action under section 363A.33, a person who is an attorney or is represented by an attorney and who alleges that a business establishment or place of public accommodation has violated accessibility requirements under law must provide a notice of architectural barrier consistent with subdivision 3. The notice of architectural barrier must be dated and must:

(1) cite the law alleged to be violated;

(2) identify each architectural barrier that is the subject of an alleged violation and specify its location on the premises;

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(3) provide a reasonable time for a response, which may not be less than ~~30~~ 60 days; and

(4) comply with subdivision 3.

(b) A notice described in paragraph (a) must not include a request or demand for money or an offer or agreement to accept money, but may offer to engage in settlement negotiations before litigation. ~~If a notice is sent, a civil action may not be filed before expiration of the period to respond provided in the notice.~~

(c) A civil action may not be brought before expiration of the period to respond provided in the notice under paragraph (a), clause (3). Subject to paragraph (d), a civil action may be brought after the response time provided in the notice.

(d) If, within the response time provided under paragraph (a), clause (3), the business establishment or place of public accommodation indicates in writing an intent to remove the barrier but can demonstrate that weather prevents a timely removal, a civil action may not be brought before 30 days after the date of the response time in the notice, provided the business establishment or place of public accommodation specifies in writing the steps that will be taken to remove the barrier and the date by which the barrier will be removed.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to civil actions for violations of accessibility requirements under law brought on or after that date.

Sec. 3. Minnesota Statutes 2016, section 363A.331, is amended by adding a subdivision to read:

Subd. 2a. **Representation by attorney after action brought.** If a person who is not represented by an attorney retains an attorney within 60 days after a civil action under section 363A.33 is brought, the attorney must provide a dated notice to the defendant that includes the items required under subdivision 2, paragraph (a), clauses (1) and (2), and the accessibility audit portion of the form under subdivision 3. The notice must include additional time for the defendant to serve an answer to the complaint or amend a previous answer to the complaint, which must be at least 60 days after the date of the notice or service of the complaint, whichever is later. If the civil action has not been filed with the court, the action must not be filed until expiration of the time provided for in the notice. The time period for serving an answer to the complaint under rule 12 of the Rules of Civil Procedure and proceedings under the complaint are stayed for the period of time specified in the notice.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to civil actions for violations of accessibility requirements under law brought on or after that date.

Sec. 4. Minnesota Statutes 2016, section 363A.331, subdivision 5, is amended to read:

Subd. 5. **Exemptions.** (a) Subdivisions 2 and 3 do not apply to:

(1) a person who is not an attorney and is not represented by an attorney; ~~or~~

(2) attorneys representing the state or a political subdivision of the state~~.~~; or

~~(b) This section does not bar a person from bringing an action if the person:~~

~~(1)~~ (3) a person who is challenging a finding contained in an audit prepared by a certified professional~~;~~.

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~~(2) has a claim for damages resulting from an injury; or~~

~~(3) has filed charges pursuant to section 363A.28.~~

(b) This section does not affect the right of a person to file a charge with the commissioner or the right of a person who has filed a charge to bring a civil action authorized under section 363A.33, subdivision 1.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to civil actions for violations of accessibility requirements under law brought on or after that date.

Presented to the governor May 20, 2017

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