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CHAPTER 363

MINNESOTA STATE ACT AGAINST DISCRIMINATION

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363.01 DEFINITIONS. Subdivision 1. **Terms.** For the purposes of this chapter, the words defined in this section have the meanings ascribed to them.

Subd. 2. [Repealed, 1965 c 586 s 6]

Subd. 3. **Commission.** "Commission" means the state commission against discrimination.

Subd. 4. **Employment agency.** "Employment agency" means a person or persons who, or an agency which regularly undertakes, with or without compensation, to procure employees or opportunities for employment.

Subd. 5. **Labor organization.** "Labor organization" means any organization that exists wholly or partly for one or more of the following purposes:

(1) Collective bargaining;

(2) Dealing with employers concerning grievances, terms or conditions of employment; or

(3) Mutual aid or protection of employees.

Subd. 6. **National origin.** "National origin" means the place of birth of an individual or of any of his lineal ancestors.

Subd. 7. **Person.** "Person" includes partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, receiver, and the state and its departments, agencies, and political subdivisions.

Subd. 8. **Respondent.** "Respondent" means a person against whom a complaint has been filed or issued.

Subd. 9. **Unfair discriminatory practices.** "Unfair discriminatory practice" means any act described in section 363.03.

Subd. 10. **Discriminate.** The term "discriminate" includes segregate or separate.

Subd. 11. **Publicly assisted housing.** "Publicly assisted housing accommodation" means a housing accommodation that is, or is located in a building:

(a) Situated on land owned or assembled into a parcel for housing accommodations by a governmental body;

(b) Upon which a commitment by a governmental body to guarantee or insure an acquisition loan is outstanding; or

(c) Subject to an outstanding secured or unsecured loan made, guaranteed, or insured by a governmental body for the purpose of financing the acquisition, construction, rehabilitation, repair, or maintenance of the building.

Subd. 12. **Real property.** "Real property" includes real estate, lands, tenements, and hereditaments, corporeal and incorporeal.

Subd. 13. **Real estate broker or salesman.** "Real estate broker or salesman" means, respectively, a real estate broker as defined by Minnesota Statutes, Section 82.01, Subdivision 4, and a real estate salesman as defined by Minnesota Statutes, Section 82.01, Subdivision 5.

[1955 c 516 s 3; 1961 c 428 s 1-3]

363.02 EXCEPTIONS. Subdivision 1. **Employment.** The provisions of section 363.03, subdivision 1, shall not apply to:

(1) The employment of any individual

(a) by his parent, grandparent, spouse, child, or grandchild, or

(b) in the domestic service of any person.

(2) A religious or fraternal corporation, association, or society, with respect

to qualifications based on religion, when religion shall be a bona fide occupational qualification for employment.

(3) The employment of one person in place of another, standing by itself, shall not be evidence of an unfair discriminatory practice.

Subd. 2. **Housing.** (1) The provisions of section 363.03, subdivision 2, shall not apply to:

(a) The rental of a portion of a dwelling containing accommodations for two families, one of which is occupied by the owner, or (b) the rental by an owner of a one-family accommodation in which he resides of a room or rooms in such accommodation to another person or persons, or (c) the rental, lease or sale of a one-family dwelling, owner occupied, not defined as a publicly assisted housing accommodation.

[1955 c 516 s 3; 1961 c 428 s 4; 1965 c 584 s 1]

363.03 UNFAIR DISCRIMINATORY PRACTICES. Subdivision 1. **Employment.** Except when based on a bona fide occupational qualification, it is an unfair employment practice:

(1) For a labor organization, because of race, color, creed, religion or national origin,

(a) to deny full and equal membership rights to an applicant for membership or to a member;

(b) to expel a member from membership;

(c) to discriminate against an applicant for membership or a member with respect to his hire, apprenticeship, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment; or

(d) to fail to classify properly, or refer for employment or otherwise to discriminate against a member;

(2) For an employer, because of race, color, creed, religion, or national origin.

(a) to refuse to hire an applicant for employment; or

(b) to discharge an employee; or

(c) to discriminate against an employee with respect to his hire, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment;

(3) For an employment agency, because of race, color, creed, religion, or national origin,

(a) to refuse or fail to accept, register, classify properly, or refer for employment or otherwise to discriminate against an individual; or

(b) to comply with a request from an employer for referral of applicants for employment if the request indicates directly or indirectly that the employer fails to comply with the provisions of this chapter;

(4) For an employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against a person because that person has opposed any practice forbidden under this chapter or has filed a complaint, testified, or assisted in any proceeding under this chapter;

(5) For a person intentionally to aid, abet, incite, compel or coerce another person to engage in any of the practices forbidden by this chapter;

(6) For a person intentionally to attempt to aid, abet, incite, compel, or coerce another person to engage in any of the practices forbidden by this chapter;

(7) For any person, employer, labor organization or employment agency to wilfully resist, prevent, impede, or interfere with the commission or any of its members or representatives in the performance of duty under this chapter;

(8) For an employer, employment agency, or labor organization, before an individual is employed by an employer or admitted to membership in a labor organization, to

(a) require the applicant to furnish information that pertains to the applicant's race, color, creed, religion or national origin, unless, for the purpose of national security, information pertaining to the national origin of the applicant is required by the United States, this state or a political subdivision or agency of the United States or this state; or

(b) cause to be printed or published a notice or advertisement that relates to employment or membership and discloses a preference, limitation, specification, or discrimination based on race, color, creed, religion or national origin.

Subd. 2. Real property. It is an unfair discriminatory practice:

(1) For an owner, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease any real property, or any agent of any of these

(a) to refuse to sell, rent, or lease or otherwise deny to or withhold from any person or group of persons any real property because of the race, color, creed, religion, or national origin of such person or group of persons;

(b) to discriminate against any person or group of persons because of the race, color, creed, religion, or national origin of such person or group of persons in the terms, conditions or privileges of the sale, rental or lease of any real property or in the furnishing of facilities or services in connection therewith; or

(c) in any transaction involving real property, to print, circulate or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental or lease of real property, or make any record or inquiry in connection with the prospective purchase, rental, or lease of real property which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, or national origin or any intent to make any such limitation, specification, or discrimination.

(2) For a real estate broker, real estate salesman, or employee, or agent thereof

(a) to refuse to sell, rent, or lease or to offer for sale, rental, or lease any real property to any person or group of persons or to negotiate for the sale, rental, or lease of any real property to any person or group of persons because of the race, color, creed, religion or national origin of such person or group of persons, or represent that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of the race, color, creed, religion, or national origin of such person or group of persons;

(b) to discriminate against any person because of his race, color, creed, religion, or national origin in the terms, conditions or privileges of the sale, rental or lease of real property or in the furnishing of facilities or services in connection therewith; or

(c) to print, circulate, or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental, or lease of any real property or make any record or inquiry in connection with the prospective purchase, rental or lease of any real property, which expresses directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion or national origin or any intent to make any such limitation, specification or discrimination;

(3) For a person, bank, banking organization, mortgage company, insurance company, or other financial institution or lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair or maintenance of any real property or any agent or employee thereof.

(a) to discriminate against any person or group of persons because of the race, color, creed, religion, or national origin of such person or group of persons or of the prospective occupants or tenants of such real property in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions, or privileges of any such financial assistance or in the extension of services in connection therewith;

(b) to use any form of application for such financial assistance or make any record or inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, or national origin or any intent to make any such limitation, specification, or discrimination.

(4) For any person

(a) to engage in any economic reprisal against any other person because that person has opposed any practice forbidden under Laws 1961, Chapter 428 or has filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under Laws 1961, Chapter 428;

(b) intentionally to aid, abet, incite, compel, or coerce any other person to engage in any of the practices forbidden by Laws 1961, Chapter 428;

(c) to wilfully obstruct or prevent any person from complying with the provisions of Laws 1961, Chapter 428 or any order issued thereunder, or to resist, prevent, impede or interfere with the commission or any of its members or representatives in the performance of duty under Laws 1961, Chapter 428; or

(d) to attempt directly or indirectly to commit any of the practices forbidden by Laws 1961, Chapter 428.

Subd. 3. **Public accommodation.** (1) It is an unfair discriminatory practice for any person to engage in any act forbidden by Minnesota Statutes 1961, Section 327.09.

[1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1]

363.04 STATE COMMISSION AGAINST DISCRIMINATION. Subdivision 1. **Creation, membership.** There is created a State Commission Against Discrimination, to consist of up to nine members, with at least one from each congressional district of the state of Minnesota; and at least one of whom shall be an attorney at law, appointed by the governor with the advice and consent of the senate, for a term of five years to serve until a successor is appointed and qualified. The chairman shall be designated by the governor.

Subd. 2. **Terms.** To ensure a continuity of work, the initial appointments to the commission shall be: one member for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years and two for a term of five years. All members shall serve until a successor is appointed and qualifies.

Subd. 3. **Vacancies.** A vacancy shall be filled by appointment by the governor for the balance of the unexpired term with the advice and consent of the senate.

Subd. 4. **Removal.** Upon notice and hearing a member may be removed by the governor upon a finding of inefficiency, neglect of duty, misconduct or malfeasance in office.

Subd. 5. **Traveling expenses.** Each member of the commission shall receive reimbursement for necessary traveling expenses incurred on official business. Reimbursement shall be made in the manner provided by law for state employees.

[1955 c 516 s 6; 1961 c 428 s 6; 1965 c 586 s 2]

363.05 DUTIES OF COMMISSION. Subdivision 1. **Formulation of policies.** The commission shall formulate policies to effectuate the purposes of this chapter and shall:

(1) establish and maintain a principal office in St. Paul, and any other necessary branch offices at any location within the state;

(2) meet and function at any place within the state;

(3) appoint an executive director to serve at the pleasure of the commission and fix his compensation and prescribe his duties;

(4) employ such attorneys, clerks and other employees and agents as it may deem necessary, to fix their compensation and prescribe their duties;

(5) to the extent permitted by federal law and regulation, utilize the records of the department of employment security of the state when necessary to effectuate the purposes of this chapter;

(6) obtain upon request and utilize the services of all state governmental departments and agencies;

(7) adopt suitable rules and regulations for effectuating the purposes of this chapter;

(8) issue, receive, and investigate complaints alleging discrimination because of race, color, creed, religion or national origin;

(9) subpoena witnesses, administer oaths, and take testimony relating to the case before the commission, and require the production for examination of any books or papers relative to any matter under investigation or in question before the commission;

(10) attempt, by means of education, conference, conciliation, and persuasion to eliminate unfair discriminatory practices in all types of employment and housing accommodations as being contrary to the public policy of the state as stated in section 363.12;

(11) conduct research and study discriminatory practices based on race, color, creed, religion, or national origin;

(12) publish the results of research and study of discriminatory practices based on race, color, creed, religion, or national origin when in the judgment of the commission it will tend to eliminate such discrimination;

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(13) develop and recommend programs of formal and informal education designed to promote good will; and may make recommendations to agencies and officers of state or local subdivisions of government in aid of such policies and purposes in eliminating discriminatory practices based on race, color, creed, religion, or national origin; and

(14) make a written report of the activities of the commission to the governor each year and to the legislature at each session.

Subd. 2. **Executive director, duties.** To the extent determined by the commission and subject to its direction and control, the executive director may exercise the powers and perform the duties of the commission.

[1955 c 516 s 7; 1961 c 428 s 7]

363.06 GRIEVANCES. Subdivision 1. **Complaint filing.** Any person aggrieved by a violation of this chapter may file by himself, or his agent, or attorney a signed complaint with the commission, stating the name and address of the person alleged to have committed an unfair discriminatory practice, setting out the details of the practice complained of and any other information required by the commission. Any employer whose employees, or some of them, or any labor union whose members, or some of them, refuse or threaten to refuse to cooperate with the provisions of this chapter, may file with the commission a signed complaint asking for assistance by conciliation or other remedial action.

Subd. 2. **Complaint, issuance by commission.** Whenever the commission has reason to believe that a person is engaging in an unfair discriminatory practice, the commission may issue a complaint.

Subd. 3. **Time for filing complaint.** A complaint of an unfair discriminatory practice must be filed within six months after the occurrence of the practice.

Subd. 4. **Inquiry into complaint.** When a complaint has been filed or issued, the commission shall promptly inquire into the truth of the allegations of the complaint. If after the inquiry the commission determines that there is probable cause for believing that an unfair discriminatory practice exists, the commission shall set a time and place for hearing the complaint and shall issue and serve by registered mail a copy of the complaint and a written notice requiring the respondent to answer the allegations of the complaint at the hearing. Within 15 days after receipt of the copy of the complaint and the notice, the respondent shall serve upon the commission, by registered mail, a verified answer to the complaint. Prior to the hearing the commission shall endeavor to eliminate the unfair discriminatory practice through education, conference, conciliation, and persuasion. If the commission determines that there is no probable cause for believing that an unfair discriminatory practice exists, the commission shall dismiss the complaint.

Subd. 5. **Attempts to eliminate unfair practices.** The commission, in complying with subdivision 4, shall endeavor to eliminate the unfair discriminatory practice at the place where the practice occurred, or the respondent resides or has his principal place of business.

Subd. 6. **Publication of accounts of cases.** The commission may publish an account of a case in which the complaint has been dismissed or the terms of settlement of a case that has been voluntarily adjusted. Except as provided in other sections of this chapter, the commission shall not disclose any information concerning its efforts in a particular case to eliminate an unfair discriminatory practice through education, conference, conciliation and persuasion.

[1955 c 516 s 8; 1961 c 428 s 8; 1965 c 586 s 3]

363.07 HEARINGS. Subdivision 1. **Conduct of hearings.** Subject to the provisions of subdivision 6 of this section, the commission shall conduct a hearing at a place designated by it within the county where the unfair discriminatory practice occurred, or the respondent resides or has his principal place of business. It may subpoena witnesses, administer oaths, take testimony and require the production for examination of any books or papers relating to any matter under investigation or in question before the commission. The commission shall adopt and promulgate rules of practice to govern its hearings and it shall employ necessary assistants, fix their compensation and prescribe their duties.

Subd. 2. **Appearances.** The complainant shall appear in person at the hearing and is subject to cross-examination by the respondent, his attorney or agent. The respondent, his attorney or agent, may appear at the hearing, submit evidence, and present his case.

Subd. 3. **Evidence receivable.** The commission shall not be bound by the strict rules of evidence that prevail in courts of law, but its findings must be based upon competent and substantial evidence. The commission receive in evidence any evidence pertaining to the efforts of the commission to eliminate the unfair practice through education, conference, conciliation, or persuasion. Each witness at the hearing shall testify under oath. All testimony and other evidence submitted at the hearing shall be recorded and transcribed. The commission, at the request of the complainant or respondent for the purposes of judicial review shall provide a copy of the transcript of the hearing without charge.

Subd. 4. **Finding of guilty.** If the commission finds that the respondent has engaged in an unfair discriminatory practice, it shall make findings and shall issue an order directing the respondent to cease and desist from the unfair discriminatory practice found to exist and to take such other affirmative action as in the judgment of the commission will effectuate the purposes of this chapter and shall serve the order on the respondent personally, and the complainant by registered mail.

Subd. 5. **Finding of not guilty.** If the commission finds that the respondent has not engaged in an unfair discriminatory practice as alleged in the complaint the commission shall make findings of fact and conclusions of law and shall issue an order dismissing the complaint and shall serve it on the complainant personally, and the respondent by registered mail.

Subd. 6. **Waiver of commission hearing.** Following conclusion of the attempts to eliminate unfair practices provided for in section 363.06 and at least five days prior to the commencement of the hearing before the commission, upon demand of a respondent for a determination by the district court on the complaint, no further proceedings shall be had before the commission. All further proceedings shall be had in the district court as provided in section 363.08, upon filing of a petition by the commission. In such case the determination of the existence of the alleged discriminatory practice and the granting of relief shall be governed by section 363.08.

[1955 c 516 s 9; 1961 c 428 s 9-13; 1965 c 586 s 4]

363.08 DISTRICT COURT, REVIEW ORDERS OF COMMISSION. Subdivision 1. **Institution of proceedings.** Subject to subdivisions 2 and 3, the commission, complainant or the respondent may institute in the manner prescribed by subdivision 4 a proceeding in the district court for judicial review and enforcement of an order of the commission.

Subd. 2. **Time limit.** Except for a proceeding by the commission to enforce its order, a proceeding in the district court shall be instituted within 30 days after service of an order of the commission.

Subd. 3. **Jurisdiction.** A proceeding under this section shall be instituted in the district court for the judicial district in which an unfair discriminatory practice covered by the order of the commission occurred, or the respondent resides or has his principal place of business. The proceeding in the district court shall be de novo and the person complained against shall be entitled at his request to a trial by jury. All trials or hearings arising under this section shall be given precedence as nearly as practicable over all other pending civil actions.

Subd. 4. **Procedure.** A proceeding under this section is instituted by:

(1) filing with the clerk of the district court a petition stating the relief requested and the grounds relied on for that relief; a transcript of the hearing held before the commission, and a copy of the findings of fact, conclusions of law, and order of the commission, and

(2) serving a proper notice of motion returnable at a special term of the court on the complainant and the respondent.

Subd. 5. **District court, exclusive jurisdiction.** When a proceeding has been instituted under this section, the district court has exclusive jurisdiction of the proceeding and shall hear and determine the proceeding.

Subd. 6. **Appearances in court action.** The complainant, respondent, and any person aggrieved by an order of the commission may appear in the proceeding.

Subd. 7. **Court determination.** In a proceeding under this section, the district court shall determine whether the findings of the commission are supported by competent and substantial evidence, and whether the order of the commission is supported by the findings. Subject to the provisions of subdivision 3 of this section, the court may, in its discretion, remand the proceeding to the commission

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for further hearing, or take additional evidence on any issue, or order a trial de novo to the court.

Subd. 8. **Court's power to issue orders.** The district court has power to grant temporary relief by restraining order or otherwise; to modify the order of the commission in any particular; to order compliance with the order of the commission; to issue its order modifying the order of the commission and enjoining compliance therewith; to vacate the order of the commission and dismiss the proceedings; or to make such orders in the matter as the interests of justice may require.

[1955 c 516 s 10; 1961 c 428 s 14; 1965 c 586 s 5]

363.09 VIOLATION OF ORDERS; CITATION FOR CONTEMPT. Any person or party who or which shall wilfully violate any order of the district court entered pursuant to a proceeding under this chapter shall be cited to the district court for and as being in contempt. Procedure for review of the order shall not be deemed to be such wilful conduct.

Any person or party found in a proceeding before the district court to be in contempt shall be punishable under Minnesota Statutes, Section 588.10, which provides for imprisonment for not more than six months, or a fine of not more than \$250, or both.

A proceeding under this section shall be commenced by the commission serving a notice of motion, and an order to show cause upon the respondent, and the complainant, and filing the same with the clerk of the district court of the county in which the aforementioned order is entered.

[1955 c 516 s 11; 1961 c 428 s 15]

363.10 APPEAL TO SUPREME COURT. The commission, or the respondent, may appeal to the supreme court as provided by Minnesota Statutes, Section 605.09, Clauses (b) and (g) from an order of the district court issued pursuant to section 363.08, subdivision 8.

[1955 c 516 s 12; 1965 c 51 s 71]

363.11 CONSTRUCTION. The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of the civil rights law or of any other law of this state relating to discrimination because of race, creed, color, religion or national origin; but, as to acts declared unfair by section 363.03, the procedure herein provided shall, while pending, be exclusive.

[1955 c 516 s 13]

363.12 DECLARATION OF POLICY. Subdivision 1. As a guide to the interpretation and application of this chapter, be it enacted that the public policy of this state is to foster equal employment and housing opportunity for all individuals in this state in accordance with their fullest capacities, regardless of their race, color, creed, religion, or national origin, and to safeguard their rights to obtain and hold employment, housing, and other real property without discrimination. Such discrimination threatens the rights and privileges of the inhabitants of this state and menaces the institutions and foundations of democracy. It is also the public policy of this state to protect all persons from wholly unfounded charges of discrimination. This chapter is an exercise of the police power of this state in the interest of the public welfare.

Subd. 2. The opportunity to obtain employment, housing, and other real estate without discrimination because of race, color, creed, religion, or national origin is hereby recognized as and declared to be a civil right.

[1955 c 516 s 1; 1961 c 428 s 16]

363.13 CITATION. This chapter shall be known as the Minnesota state act against discrimination.

[1955 c 516 s 2; 1961 c 428 s 17]