

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.  
Act 250 of the Regular Session

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 1244

4  
5 By: Representatives Thompson, Petrus, Thyer  
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## For An Act To Be Entitled

8  
9 AN ACT TO CLARIFY ATTORNEY GENERAL LAWSUITS ON  
10 BEHALF OF THE ARKANSAS FAIR HOUSING COMMISSION;  
11 AND FOR OTHER PURPOSES.  
12

## Subtitle

13  
14 AN ACT TO CLARIFY ATTORNEY GENERAL  
15 LAWSUITS ON BEHALF OF THE ARKANSAS FAIR  
16 HOUSING COMMISSION.  
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 16-123-321 is amended to read as follows:  
22 16-123-321. Conciliation.

23 (a) The Director of the Arkansas Fair Housing Commission, during the  
24 period beginning with the filing of a complaint and ending with the filing of  
25 a charge or a dismissal by the director or commission, to the extent  
26 feasible, shall engage in conciliation with respect to the complaint.

27 (b) A conciliation agreement reached through conciliation is a written  
28 agreement between a respondent, the complainant, and the commission requiring  
29 approval from all three (3).

30 (c)(1) A conciliation agreement may provide for binding arbitration of  
31 the dispute arising from the complaint.

32 (2) A conciliation agreement may authorize appropriate relief,  
33 including monetary relief.

34 (d) A conciliation agreement shall be made public, unless the  
35 complainant and respondent agree otherwise, and the director determines that



1 disclosure is not necessary to further the purposes of this subchapter.

2 (e) If the director has reasonable cause to believe that a respondent  
 3 has breached a conciliation agreement, the ~~Attorney General shall be directed~~  
 4 ~~to~~ director may authorize and the Attorney General may file a civil action  
 5 for the enforcement of the conciliation agreement as under § 16-123-330, or  
 6 the Attorney General may authorize the director to hire outside counsel to  
 7 seek enforcement.

8 (f) No statements or actions made within the course of conciliation  
 9 may be made public or used as evidence in a subsequent proceeding under this  
 10 subchapter without the written consent of the persons concerned.

11 (g) After completion of the director's investigation, the director  
 12 shall make available to the aggrieved person and the respondent, at any time,  
 13 information derived from the investigation and the final report related to  
 14 that investigation.

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 16 SECTION 2. Arkansas Code § 16-123-322 is amended to read as follows:  
 17 16-123-322. Temporary or preliminary relief.

18 (a) If the Director of the Arkansas Fair Housing Commission concludes  
 19 any time following the filing of a complaint that prompt judicial action is  
 20 necessary to carry out the purposes of this subchapter, and after  
 21 consultation with the office of the Attorney General, the director may  
 22 authorize the filing by the Attorney General ~~of~~ and the Attorney General may  
 23 file a civil action in a court of competent jurisdiction in the county where  
 24 the respondent resides for appropriate temporary or preliminary relief  
 25 pending final disposition of the complaint, or the Attorney General may  
 26 authorize the director to hire outside counsel to seek the relief.

27 (b) The filing of a civil action under this section does not affect  
 28 the initiation or continuation of an administrative proceeding entitled  
 29 "administrative hearing" under § 16-123-331.

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 31 SECTION 3. Arkansas Code § 16-123-330 is amended to read as follows:  
 32 16-123-330. Attorney General - Action for enforcement.

33 (a) If a timely election is made under § 16-123-329, the Arkansas Fair  
 34 Housing Commission ~~shall~~ may authorize and the Attorney General ~~shall~~ may  
 35 file and maintain on behalf of the aggrieved party a civil action in a court  
 36 of competent jurisdiction in the county where the respondent seeking

1 appropriate relief under this section resides, or the Attorney General may  
 2 authorize the commission to hire outside counsel to pursue appropriate  
 3 relief.

4 (b) If the commission determines, as under § 16-123-321, and after  
 5 consultation with the office of the Attorney General, that a conciliation  
 6 agreement has been breached by the respondent, the Attorney General ~~shall~~ may  
 7 file a civil action on behalf of the aggrieved person in a court of competent  
 8 jurisdiction in the county where the respondent seeking enforcement of the  
 9 conciliation agreement resides, or the Attorney General may authorize the  
 10 commission to hire outside counsel to seek enforcement of the conciliation  
 11 agreement.

12 (c) Venue for an action under this section is in the court of  
 13 competent jurisdiction in the county where the respondent resides.

14 (d) An aggrieved person may intervene in the action.

15 (e) If the court finds that a discriminatory housing practice has  
 16 occurred or is about to occur, the court may grant as relief any relief that  
 17 a court may grant in a civil action under this subchapter.

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 19 SECTION 4. Arkansas Code § 16-123-340 is amended to read as follows:  
 20 16-123-340. Intervention by Attorney General.

21 (a) ~~At the request of the~~ The Arkansas Fair Housing Commission, may  
 22 authorize the Attorney General to intervene and the Attorney General may  
 23 intervene in an action if ~~the commission certifies and the Attorney General~~  
 24 ~~concurs that~~ the case is of general public importance.

25 (b) The Attorney General may obtain the same relief available under §  
 26 16-123-341.

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 28 SECTION 5. Arkansas Code § 16-123-343 is amended to read as follows:  
 29 16-123-343. Prevailing party.

30 (a) A court in a civil action brought under this subchapter or the  
 31 Arkansas Fair Housing Commission in an administrative hearing under § 16-123-  
 32 331, may award reasonable attorney's fees to the prevailing party ~~and assess~~  
 33 ~~costs against the nonprevailing party.~~

34 (b) However, nothing contained in this subchapter shall waive the  
 35 sovereign immunity of the State of Arkansas or any of its officials,  
 36 agencies, departments, boards, or commissions.

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APPROVED: 2/22/2005