

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

HOUSE BILL 1244

By: Representatives Thompson, Petrus, Thyer

For An Act To Be Entitled

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

Subtitle

AN ACT TO CLARIFY ATTORNEY GENERAL
LAWSUITS ON BEHALF OF THE ARKANSAS FAIR
HOUSING COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16-123-321 is amended to read as follows:
16-123-321. Conciliation.

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

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

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

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

(d) A conciliation agreement shall be made public, unless the complainant and respondent agree otherwise, and the director determines that disclosure is not necessary to further the purposes of this subchapter.



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

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

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

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

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

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

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

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

1 authorize the commission to hire outside counsel to pursue appropriate
 2 relief.

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

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

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

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

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

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

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

26
 27 SECTION 5. Arkansas Code § 16-123-343 is amended to read as follows:
 28 16-123-343. Prevailing party.

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

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