

FAIR HOUSING AMENDMENT

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: L. Steven Poulton

AN ACT RELATING TO THE UTAH FAIR HOUSING ACT; MOVING THE SUBPOENA POWER FROM THE DIVISION OF ANTIDISCRIMINATION TO THE LABOR COMMISSION; REQUIRING THE LABOR COMMISSION TO CONCUR WITH CERTAIN DETERMINATIONS OF THE DIVISION; GRANTING THE RIGHT TO AN INDEPENDENT LEGAL REVIEW BY THE LABOR COMMISSION; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

57-21-8, as last amended by Chapter 375, Laws of Utah 1997

57-21-9, as last amended by Chapter 375, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **57-21-8** is amended to read:

57-21-8. Jurisdiction -- Department -- Division.

(1) The commission has jurisdiction over the subject of housing discrimination under this chapter and may delegate the responsibility of receiving, processing, and investigating allegations of discriminatory housing practices and enforcing this chapter to the division.

(2) The commission may:

(a) adopt rules necessary to administer this chapter in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act; ~~and~~

(b) appoint and prescribe the duties of investigators, legal counsel, and other employees and agents that it considers necessary for the enforcement of this chapter~~[-]; and~~

(c) issue subpoenas to compel the attendance of witnesses or the production of evidence for use in any investigation, conference, or hearing conducted by the division, and if a person fails to comply with such a subpoena, petition a court of competent jurisdiction for an order to show cause why that person should not be held in contempt.

(3) The division [may]:

(a) may receive, reject, investigate, and determine complaints alleging discriminatory housing practices prohibited by this chapter;

~~[(b) issue subpoenas to compel the attendance of witnesses or the production of evidence for use in any investigation, conference, or hearing conducted by the division, and if a person fails to comply with such a subpoena, petition a court of competent jurisdiction for an order to show cause why that person should not be held in contempt;]~~

~~[(c)]~~ (b) shall attempt conciliation between the parties through informal efforts, conference, persuasion, or other reasonable methods for the purposes of resolving the complaint;

~~[(d)]~~ (c) may seek prompt judicial action for appropriate temporary or preliminary relief pending final disposition of a complaint if the division ~~[concludes]~~ and the commission conclude that such an action is necessary to carry out the purposes of this chapter;

~~[(e)]~~ (d) may, with the commission, initiate a civil action in a court of competent jurisdiction to:

- (i) enforce the rights granted or protected under this chapter;
- (ii) seek injunctive or other equitable relief, including temporary restraining orders, preliminary injunctions, or permanent injunctions;
- (iii) seek damages; and
- (iv) enforce final commission orders on the division's own behalf or on behalf of another person in order to carry out the purposes of this chapter;

~~[(f)]~~ (e) may initiate formal agency action under Title 63, Chapter 46b, Administrative Procedures Act; and

~~[(g)]~~ (f) may promote public awareness of the rights and remedies under this chapter by implementing programs to increase the awareness of landlords, real estate agents, and other citizens of their rights and responsibilities under the Utah Fair Housing Act, but may not solicit fair housing complaints or cases.

Section 2. Section **57-21-9** is amended to read:

57-21-9. Procedure for an aggrieved person to file a complaint -- Conciliation -- Investigation -- Determination.

(1) Any person aggrieved by a discriminatory housing practice may file a written verified complaint with the division within 180 days after the alleged discriminatory housing practice occurs.

(2) (a) The commission shall adopt rules consistent with the provisions of 24 C.F.R. Sec. 115.3 (1990), relating to procedures under related federal law, to govern:

(i) the form of the complaint;
(ii) the form of any answer to the complaint;
(iii) procedures for filing or amending a complaint or answer; and
(iv) the form of notice to parties accused of the acts or omissions giving rise to the complaint.

(b) The commission may, by rule, prescribe any other procedure pertaining to the division's processing of the complaint.

(3) During the period beginning with the filing of the complaint and ending with the director's determination and order, the division shall, to the extent feasible, engage in conciliation with respect to the complaint.

(4) The division shall commence proceedings to investigate and conciliate a complaint alleging a discriminatory housing practice within 30 days after the filing of the complaint. After the commencement of an investigation, any party may request that the commission review the proceedings to insure compliance with the requirements of this chapter.

(5) The division shall complete the investigation within 100 days after the filing of the complaint, unless it is impracticable to do so. If the division is unable to complete the investigation within 100 days after the filing of the complaint, the division shall notify the complainant and respondent in writing of the reasons for the delay.

(6) If the division determines that there is no reasonable cause to support the allegations in the complaint:

(a) the director or the director's designee shall issue a written determination and order for the dismissal of the complainant and respondent; and

(b) the complainant, respondent, or an aggrieved party may submit a written request for a reconsideration of the director's or designee's determination and order within 20 days after the date

of issuance of the director's determination and order pursuant to Section 63-46b-13. The decision of the Division of Adjudication may be appealed in accordance with Title 34A, Chapter 1, Part 3, Adjudicative Proceedings.

(7) If the director or designee fails to receive a timely request for review under Subsection (6)(b), the determination and order become the final order of the commission.

(8) If the division determines that there is reasonable cause to support the allegations in the complaint, all of the following apply:

(a) The division shall informally endeavor to eliminate or correct the discriminatory housing practice through a conciliation conference between the parties, presided over by the division. Nothing said or done in the course of the conciliation conference may be made public or admitted as evidence in a subsequent proceeding under this chapter without the written consent of the parties concerned.

(b) If the conciliation conference results in voluntary compliance with this chapter, a conciliation agreement setting forth the resolution of the issues shall be executed by the parties and approved by the division. The parties may enforce the conciliation agreement in an action filed in a court of competent jurisdiction.

(c) If the division is unable to obtain a conciliation agreement, the director shall issue a written determination and order to the complainant and respondent stating the findings of the division that the allegations of the complaint are supported by reasonable cause and ordering any appropriate relief under Section 57-21-11.