

Assembly Bill 852

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CHAPTER 439

AN ACT to amend 15.85 and 111.32 (5) (a); to repeal and recreate 942.04 (2); and to create 101.60 of the statutes, redesignating the fair employment division of the industrial commission to be the equal opportunities division, prohibiting discrimination in housing and providing for relief therefrom, redefining public places of accommodation or amusement and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. DECLARATION OF INTENT. It is the intent of this act to render unlawful discrimination in housing where the sale, rental or lease of the housing constitutes a business. It is the declared policy of this state that all persons shall have an equal opportunity for housing regardless of race, color, religion, national origin or ancestry and it is the duty of the local units of government to assist in the orderly prevention or removal of all discrimination in housing through the powers granted under section 66.433 of the statutes. This act shall be deemed an exercise of the police powers of the state for the protection of the welfare, health, peace, dignity and human rights of the people of this state.

SECTION 2. 15.85 of the statutes is amended to read:

15.85 (1) There is created the governor's commission on human rights to consist of not to exceed 35 members who shall be appointed by the governor for terms of 3 years each ~~without the advice or consent of the senate~~. Members shall be appointed from the entire state and shall be representative of all races, creeds, groups, organizations and fields of endeavor. They shall receive no compensation for their services.

(2) (a) ~~It shall be the duty of~~ The commission ~~to~~ shall disseminate information and ~~to~~ attempt by means of discussion as well as other proper means to educate the people of the state to a greater understanding, appreciation and practice of human rights for all people, of whatever race, creed, color or national origin, to the end that Wisconsin will be a better place in which to live.

(b) *The commission may investigate alleged cases of discrimination in public places of accommodation or amusement, as defined in s. 942.04 (2), and may seek conciliation in any such case where it believes discrimination to have occurred.*

(c) *The commission shall encourage and assist local units of government in guaranteeing all persons an equal opportunity for housing.*

SECTION 3. 111.32 (5) (a) of the statutes is amended to read:

111.32 (5) (a) ~~The term~~ "Discrimination" means discrimination because of age, race, color, sex, creed, national origin or ancestry, by an employer individually or in concert with others against any employe or

any applicant for employment, in regard to his hire, tenure or term, condition or privilege of employment and by any labor organization against any member or applicant for membership, and also includes discrimination on any of said grounds in the fields of housing, recreation, education, health and social welfare *as related to a condition or privilege of employment.*

SECTION 4. 101.60 of the statutes is created to read:

101.60 EQUAL OPPORTUNITIES. (1) DEFINITIONS. In this section unless the context requires otherwise:

(a) "Housing" means any improved property, including any mobile home as defined in s. 66.058, which is used or occupied, or is intended, arranged or designed to be used or occupied, as a home or residence, but does not include:

1. Any building or structure containing living quarters occupied or intended to be occupied by no more than one family and which is used by or was last used by the owner thereof as a bona fide residence for himself and any members of his family forming his household;

2. Any building occupied by the owner as his residence, in which single rooms are rented out for occupancy by 4 or less individuals, not members of the owner's family.

3. Any building located on a lot which does not exceed 60 feet by 120 feet in size, on which lot is situated a building or structure occupied by the owner thereof as his residence, provided the total number of family housing units on said lot does not exceed 4.

4. Any building consisting of four or less dwelling units, all in one structure, in which at least one of such dwelling units is occupied by the owner of such building as his residence.

(b) "Discriminate" and "discrimination" mean to segregate, separate, exclude or treat any person unequally only because of race, color, religion, national origin or ancestry. It is intended that the factors set forth herein shall be the sole bases for prohibiting discrimination.

(c) "Unimproved residential lot" means any residential lot upon which no permanent building or structure containing living quarters has been constructed.

(2) **DISCRIMINATION PROHIBITED.** It is unlawful for any person to discriminate:

(a) By refusing to sell, lease, finance or contract to construct housing or by refusing to discuss the terms thereof.

(b) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease or rental of housing.

(c) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.

(d) By publishing, circulating, issuing or displaying, or causing to be published, circulated, issued or displayed, any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of housing, which states or indicates any discrimination in connection with housing.

(3) **INDUSTRIAL COMMISSION TO ADMINISTER.** This section shall be administered by the industrial commission through its equal opportunities division. The commission may promulgate such rules as are necessary to carry out this section. The commission shall at the end of every year make a report in writing to the governor and legislature, stating in detail the work it has done and its recommendations, if any. No publicity shall be given a complaint in those cases where the commission obtains compliance with this section or the commission finds that the complaint is without foundation.

(4) COMMISSION POWERS. (a) The commission may receive and investigate complaints charging violations of this section. A complaint shall be a written statement of the essential facts constituting the discrimination charged, and shall be verified.

(b) In carrying out this section the commission and its duly authorized agents are empowered to hold hearings, subpoena witnesses, take testimony and make investigations as provided in this chapter.

(c) If the commission finds probable cause to believe that any discrimination has been or is being committed in violation of this section, it shall immediately endeavor to eliminate such discrimination by conference, conciliation and persuasion. If the commission determines that such conference, conciliation and persuasion has not eliminated the alleged discrimination, the commission shall issue and serve a written notice of hearing, specifying the nature and acts of discrimination which appear to have been committed, and requiring the person named, hereinafter called the "respondent" to answer the complaint at a hearing before the commission. The notice shall specify a time of hearing, not less than 10 days after service of the complaint, and a place of hearing within the county in which the act of discrimination is alleged to have occurred. The testimony at the hearing shall be recorded by the commission. In all hearings, except those for determining probable cause, before the commission the burden of proof shall be on the party alleging discrimination. If, after the hearing, the commission finds by a fair preponderance of the evidence that the respondent has engaged in discrimination in violation of this section, the commission shall make written findings and recommend such action by the respondent as will effectuate the purpose of this section and shall serve a certified copy of its findings and recommendations on the respondent and complainant together with an order requiring the respondent to comply with the recommendations, the order to have the same force as other orders of the commission and be enforced as provided in this section except that the enforcement of such order shall automatically be stayed upon the filing of a petition for review with the circuit court for the county in which the alleged discrimination took place. If the commission finds that the respondent has not engaged in discrimination as alleged in the complaint, it shall serve a certified copy of its findings on the complainant and the respondent together with an order dismissing the complaint. Where the complaint is dismissed, costs in an amount not to exceed \$100 plus actual disbursements for the attendance of witnesses may be assessed against the industrial commission in the discretion of the commission.

(4m) TESTING PROHIBITED. It is unlawful for any person not having any bona fide intention to avail himself of any rights under this section to solicit offers, to buy or lease from property owners or lessees or their agents, to demand the services or facilities of any place of public accommodation, to demand facilities or to demand any employment for the sole purpose of securing evidence of a discriminatory practice. Any person found by the commission under the hearing procedure provided in sub. (4) (c) to have violated this subsection shall be subject to the penalties prescribed under sub. (6), together with costs and disbursements as provided in sub. (4) (c). Such finding is subject to judicial review as provided in sub. (5).

(4n) REQUIRING REFERENCES. Nothing in this section shall be deemed to prohibit an owner, or his agent, from requiring that any person who seeks to buy, rent or lease housing supply information concerning his family, marital, financial and business status but not concerning race, color or creed.

(5) JUDICIAL REVIEW. Within 30 days after service upon all parties of any order under this section the respondent or complainant may appeal the

order to the circuit court for the county in which the alleged discrimination took place by the filing of a petition for review. The respondent or complainant shall receive a trial de novo on all issues relating to any alleged discrimination and a further right to a trial by jury, if so desired. The attorney general shall represent the commission. In any such trial the burden shall be to prove discrimination by a fair preponderance of the evidence. Costs in an amount not to exceed \$100 plus actual disbursements for the attendance of witnesses may be taxed to the prevailing party on the appeal.

(6) PENALTY. Any person who willfully violates this section or any lawful order issued hereunder shall, for each such violation, forfeit not less than \$10 nor more than \$200. Payment of any such forfeiture shall be stayed during the period in which any appeal may be taken and during the pendency of any appeal under sub. (5).

SECTION 5. 942.04 (2) of the statutes is repealed and recreated to read:

942.04 (2) "Public place of accommodation or amusement" shall be interpreted broadly to include, but not be limited to, places of business or recreation, hotels, motels, resorts, restaurants, taverns, barbershops, nursing homes, clinics, hospitals, cemeteries, and any place where accommodations, amusement, goods or services are available either free or for a consideration except where provided by bona fide private, nonprofit organizations or institutions.

SECTION 6. Wherever the phrase "fair employment division" appears in section 16.765 of the statutes, the phrase "equal opportunities division" is substituted.

SECTION 7. The fair employment division of the industrial commission is redesignated to be the equal opportunities division of the industrial commission.

SECTION 8. This bill is declared to be an emergency bill, recommended by the joint committee on finance, in accordance with the requirements of section 16.47 (2) of the statutes.

SECTION 9. If any provision of section 101.60 (1) of the statutes is declared invalid, such invalidity shall affect and render invalid all other provisions of this act.

Approved December 9, 1965.