

HOUSE RESEARCH

Bill Summary

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Subject: Human Rights Act; public accommodation claims for architectural barriers

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Overview

This bill adds new provisions to the Minnesota Human Rights Act governing lawsuits related to claims for violations of the Minnesota Human Rights Act related to architectural and communication barriers in public accommodations. The bill amends the statute of limitations related to these cases, provides new regulations which apply to attorneys sending demand letters in these cases, and provides affirmative defenses for defendants in these cases.

Section

1 For filing; filing options. Amends the statute of limitations for filing a civil action, allowing the one-year statute of limitations to begin running after the time period provided in a demand letter sent to a business or other entity to cure a violation related to an architectural or communication barrier that limits access for a person with a disability.

2 Actions involving architectural barriers that limit accessibility.

Subd. 1. Definitions.

- “Accessibility requirements under law” means the laws that require the removal of architectural barriers that limit access to public accommodations, specifically defined as the prohibition under the Minnesota Human Rights Act and the federal Equal Opportunities for Persons with Disabilities law of architectural and communication barriers that are structural in nature (when removal is readily achievable), and transportation barriers in existing vehicles (but not including retrofitting a vehicle for a lift); or when removal is not

Section

readily achievable, providing the goods or services in an alternative means if the means are readily achievable.

- “Certified professional” means a person certified by a municipality to enforce the State Building Code and is a certified building official who also has met the accessibility specialist requirements and passed a written examination prepared by the state; or a licensed, register, or otherwise certified professional with demonstrated knowledge of accessibility requirements under the law.

Subd. 2. Affirmative defense; challenging audit. Provides an affirmative defense to a defendant who has been sued for failing to remove an architectural barrier when the defendant can demonstrate that the barrier has been removed, the removal is not readily achievable or cannot be accomplished by other means, or produces a report from a professional with a remedial plan and demonstrates compliance with the plan. This section also provides that a plaintiff who challenges a remediation plan that was prepared by a professional has the burden of showing that the violation of the Human Rights Act is still occurring or that compliance could be achieved through alternative means.

Subd. 3. Demand letter seeking removal of an architectural barrier.

- Requires specific information be included in a demand letter that is sent by an attorney to a person who has violated the Human Rights Act by failing to remove a structural or communication barrier, including the nature of the alleged violation, the law alleged to be violated, and a reasonable time period (no less than 30 days) to respond.
- Prohibits a demand letter from requesting money to prevent a lawsuit from being filed. This section also prevents a plaintiff from pursuing a civil action until the response time in the demand letter has passed, and if the potential defendant removes the barrier or demonstrates compliance with a remediation plan or that the removal cannot be achieved and goods and services cannot be accomplished by alternative means.
- Provides exceptions to this section when a lawsuit can proceed.
- Provides that nothing in this section prohibits filing a complaint with the Minnesota Department of Human Rights for a violation under the Human Rights Act.
- Excludes government attorneys from the requirements of this section.