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State of Minnesota

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Page No. **89**

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1542

02/22/2017 Authored by Smith, Fischer, Swedzinski, Kresha, Scott and others
The bill was read for the first time and referred to the Committee on Civil Law and Data Practices Policy
03/08/2017 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act
1.2 relating to human rights; amending notice provisions for actions involving
1.3 architectural barriers; amending Minnesota Statutes 2016, section 363A.331,
1.4 subdivisions 2, 5.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2016, section 363A.331, subdivision 2, is amended to read:

1.7 Subd. 2. **Notice of architectural barrier.** (a) ~~A notice sent before filing a civil action~~
1.8 ~~with the court by an attorney representing a person who alleges that a business establishment~~
1.9 ~~or place of public accommodation has violated an accessibility requirement under law~~ Before
1.10 bringing a civil action under section 363A.33, an attorney representing a person who alleges
1.11 that an entity required to comply with section 363A.11, subdivision 3, has violated
1.12 accessibility requirements under state law must provide a notice of architectural barrier
1.13 consistent with subdivision 3. The notice of architectural barrier must be dated and must:

- 1.14 (1) cite the law alleged to be violated;
- 1.15 (2) identify each architectural barrier that is the subject of an alleged violation and specify
- 1.16 its location on the premises;
- 1.17 (3) provide a reasonable time for a response, which may not be less than 30 days; and
- 1.18 (4) comply with subdivision 3.

1.19 (b) A notice described in paragraph (a) must not include a request or demand for money
1.20 or an offer or agreement to accept money, but may offer to engage in settlement negotiations
1.21 before litigation. If a notice is sent, a civil action may not be filed before expiration of the
1.22 period to respond provided in the notice.

2.1 (c) A civil action may not be filed before expiration of the period to respond provided
2.2 in the notice. A civil action may not be filed or pursued by a plaintiff if, within the response
2.3 time provided in the notice of architectural barrier, the entity required to comply with section
2.4 363A.11, subdivision 3:

2.5 (1) removes the architectural barrier in a manner that complies with accessibility
2.6 requirements under law and provides reasonable proof of the removal to the attorney
2.7 representing the person alleging the violation; or

2.8 (2) produces an accessibility audit prepared by a certified professional finding that the
2.9 alleged architectural barrier does not violate accessibility requirements under the law or
2.10 that compliance with accessibility requirements under law is not readily achievable or cannot
2.11 be accomplished by alternative means.

2.12 (d) If within the response time provided in the notice of architectural barrier, a defendant
2.13 produces an accessibility audit prepared by a certified professional containing a remedial
2.14 plan with a reasonable timetable for completion, a civil action may not be filed or pursued
2.15 by a plaintiff within 120 days of the defendant providing the accessibility audit.

2.16 (e) A person who is not represented by an attorney may, but is not required to, send a
2.17 notice of architectural barrier. A person who elects to send a notice of architectural barrier
2.18 under this section must comply with the requirements of this section.

2.19 **EFFECTIVE DATE.** This section is effective the day following final enactment and
2.20 applies to civil actions brought under Minnesota Statutes, chapter 363A, on or after that
2.21 date.

2.22 Sec. 2. Minnesota Statutes 2016, section 363A.331, subdivision 5, is amended to read:

2.23 Subd. 5. **Exemptions.** (a) Subdivisions 2 and 3 do not apply to:

2.24 (1) a person who is not represented by an attorney unless a person chooses to send a
2.25 notice of architectural barrier as provided in subdivision 2, paragraph (c); or

2.26 (2) attorneys representing the state or a political subdivision of the state.

2.27 (b) This section does not bar a person from bringing an action if the person:

2.28 (1) is challenging a finding contained in an audit prepared by a certified professional;

2.29 (2) has a claim for damages resulting from an injury; or

2.30 (3) has filed charges pursuant to section 363A.28.

- 3.1 **EFFECTIVE DATE.** This section is effective the day following final enactment and
- 3.2 applies to civil actions brought under Minnesota Statutes, chapter 363A, on or after that
- 3.3 date.