

44-1021. Same; judicial review of commission action; civil enforcement of act. (a) Within 45 days after the entry of an order by the commission pursuant to K.S.A. 44-1019 and amendments thereto or within 30 days after the commission has received written notification of the manner in which a respondent has complied with the commission's order, the commission or a person aggrieved may bring a civil action in the district court of the county in which the alleged discriminatory housing practice is alleged to have occurred or in which the respondent resides or transacts business, but upon application by the person aggrieved and the commission, the attorney general or the appropriate district or county attorney may provide the attorney necessary to bring the action authorized herein. Such action may be brought to enforce the order of the commission, or to enforce any of the rights granted or protected by K.S.A. 44-1016, 44-1017 and 44-1026, and amendments thereto, insofar as such rights relate to the subject of the complaint with respect to which the order was issued. All such actions shall be heard by the court in a trial *de novo*. Upon application of any party to such action, the commission shall make available to all parties the records and information gathered during any investigation or hearing conducted pursuant to the authority granted by this act, except that any records or information concerning the commission's efforts to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion shall not be admissible as evidence in such action. If the respondent shall request a copy of the transcript of the hearing, the respondent shall pay for the cost of its preparation.

(b) If the court finds that a discriminatory housing practice has occurred, or is about to occur, the court may, in its discretion, grant as relief any permanent, temporary or mandatory injunction, temporary restraining order or other proper order, but any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this act, and involving a bona fide purchaser, encumbrancer or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this act, shall not be affected.

(c) Whenever a complaint is filed, or a civil action commenced, under the provisions of this act, the commission may post notice thereof on any real property which is the subject of such complaint or action.

(d) (1) An aggrieved person may commence a civil action in a district court of the county in which the alleged discriminatory housing practice is alleged to have occurred or in which the respondent resides or transacts business not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice. Except in the case of an action arising from a breach of a conciliation agreement, the computation of the two-year period shall not include any time during which an administrative proceeding under this act was pending with respect to a complaint under this act based on such discriminatory housing practice.

(2) If the United States department of housing and urban development, the commission or a local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a hearing under K.S.A. 44-1019 and amendments thereto.

(4) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages and, subject to subsection (d)(5), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate. The court, in its discretion, may allow the prevailing party, other than the state of Kansas, reasonable attorney fees and costs. The state of Kansas shall be liable for such fees and costs to the same extent as a private person.

(5) Relief granted under this subsection shall not affect any contract, sale, encumbrance or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer or tenant, without actual notice of the filing of a complaint with the commission or civil action under this act.

History: L. 1970, ch. 193, § 7; L. 1972, ch. 194, § 12; L. 1991, ch. 147, § 13; L. 1992, ch. 142, § 4; July 1.