

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 865

Committee Substitute Favorable 5/11/89

Local Government & Regional Affairs Senate Committee Substitute Adopted 6/14/89

Short Title: Gastonia Fair Housing.

(Local)

Sponsors:

Referred to:

March 27, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE GASTONIA FAIR HOUSING ACT.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 902 of the 1985 Session Laws, as rewritten by Section 1 of Chapter 931, Session Laws of 1987, is rewritten to read:

"Section 1. (a) The City Council of Gastonia shall have the power to adopt ordinances prohibiting discrimination in real estate transactions based on race, color, national origin, religion, age, sex, handicap or familial status, subject to reasonable exemptions as defined in the ordinances. For purposes of this act, 'discrimination in real estate transactions' includes those acts, practices, activities or procedures constituting discriminatory housing practices under Title VIII of the Civil Rights Act of 1968, as amended, entitled the 'Fair Housing Act' (42 U.S.C. § 3601 et seq.). Such ordinances may provide that violations constitute a criminal offense; may subject the offender to civil penalties; and may provide for their enforcement by application to the Superior Court of Gaston County for appropriate legal and equitable relief, including mandatory and prohibitory injunctions and orders of abatement, actual monetary damages, punitive damages and attorney's fees; and the court shall have jurisdiction to grant such remedies.

(b) The City Council may authorize or create an agency or commission of the City of Gastonia, hereinafter referred to as 'the agency', to take such actions and to have such powers and duties as may be appropriate and necessary to implement and enforce the ordinances, including the following:

- 1 (1) To receive, initiate, investigate, seek to conciliate, hold hearings on,  
2 and determine the final administrative disposition of charges filed  
3 under or complaints arising from the ordinances;
- 4 (2) To mediate alleged violations of the ordinances and to negotiate and  
5 approve written conciliation agreements relating thereto, which  
6 agreements may include provisions for actual monetary damages,  
7 affirmative or specific relief and attorney's fees;
- 8 (3) To seek temporary restraining orders and preliminary injunctions from  
9 the Superior Court of Gaston County when reasonably necessary to  
10 carry out the purposes of the ordinances or to maintain the status quo  
11 during pendency of its proceedings;
- 12 (4) To issue orders against persons it finds, after notice and hearing, to  
13 have violated the ordinances which orders may include the assessment  
14 of civil penalties pursuant to the ordinance, the award of actual  
15 monetary damages and such other relief as may be appropriate; and
- 16 (5) To petition for judicial enforcement of its orders and written  
17 conciliation agreements in the Superior Court of Gaston County.

18 (c) Such ordinances may provide for the designation of a Fair Housing Officer or  
19 Officers who may perform designated duties in order to assist the City or the agency in  
20 performing its responsibilities under the ordinances, including but not limited to those  
21 regarding the initiation, receipt, investigation and conciliation of charges filed under or  
22 complaints arising from the ordinances."

23 Sec. 2. Section 3 of Chapter 902 of the 1985 Session Laws is rewritten to  
24 read:

25 "Sec. 3. (a) Any person aggrieved by an order or final decision of the agency  
26 shall have the right to request a hearing **de novo** by filing a civil action in the Superior  
27 Court of Gaston County against the person allegedly violating the ordinances, provided  
28 such action is filed within one year of receipt of the agency's order or final decision.  
29 Reasonable attorney's fees and costs shall be recoverable by the prevailing party in the  
30 court's discretion, and the court may order any appropriate legal or equitable relief  
31 including actual monetary damages, mandatory or prohibitory injunctions and punitive  
32 damages.

33 (b) Notwithstanding the provisions of Section 3(a), an ordinance adopted  
34 pursuant to this act may permit a complainant dissatisfied with the agency's handling of  
35 a complaint to bring a civil action in the Superior Court of Gaston County against the  
36 person allegedly violating the ordinances, provided such action is brought within one  
37 year after the complaint was filed with the agency.

38 (c) Any person aggrieved by the decision of the Superior Court pursuant to  
39 Section 3(a) or 3(b) above may appeal such decision to the North Carolina Appellate  
40 Division according to the rules of civil procedure applicable to other civil cases."Sec. 3.  
41 Section 4(a) of Chapter 902 of the 1985 Session Laws is amended to read:

42 "(a) If within 60 days after entry of an order of the agency, the respondent has not  
43 complied with the order and no person aggrieved thereby has requested a **de nova**  
44 hearing pursuant to Section 3(a) of this act, the agency or any aggrieved person may

1 petition the Superior Court of Gaston County for an order of the court enforcing the  
2 order of the agency. Such petition shall be heard by the Superior Court as a matter in  
3 the nature of **certiorari** as set forth in this section."

4           Sec. 4. Section 5 of Chapter 902 of the 1985 Session Laws, as rewritten by  
5 Section 2 of Chapter 931, Session Laws of 1987, is rewritten to read:

6           "Sec. 5. The ordinances may include affirmative provisions requiring (i)           that  
7 handicapped persons be allowed to make reasonable modifications or alterations to  
8 existing premises at their own expense if necessary to afford them full enjoyment of  
9 such premises; and (ii) that multifamily dwellings consisting of four or more units and  
10 intended for initial occupancy after March 13, 1991, be designed and constructed  
11 subject to specified requirements in order to ensure that units therein are readily  
12 accessible to, and adaptable to the use of, handicapped persons."

13           Sec. 5. Sections 2, 4(b) through 4(f), 6, 7, and 8 of Chapter 902 of Session  
14 Laws of 1985, as amended by Chapter 931, Session Laws of 1987, shall remain in full  
15 force and effect as written.

16           Sec. 6. This act is effective upon ratification.