

AMENDMENTS TO LB 361

(Amendments to Standing Committee amendments, AM0523)

1           1.     Strike sections 25 and 26 and insert the following  
2 new sections:

3           "Sec. 25. Section 20-325, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           20-325. The commission shall:

6           (1) Make studies with respect to the nature and extent of  
7 discriminatory housing practices in representative urban, suburban,  
8 and rural communities throughout the state;

9           (2) Publish and disseminate reports, recommendations, and  
10 information derived from such studies, including an annual report  
11 to the Legislature:

12           (a) Specifying the nature and extent of progress made  
13 statewide in eliminating discriminatory housing practices and  
14 furthering the purposes of the Nebraska Fair Housing Act, obstacles  
15 remaining to achieving equal housing opportunity, and  
16 recommendations for further legislative or executive action; and

17           (b) Containing tabulations of the number of instances and  
18 the reasons therefor in the preceding year in which:

19           (i) Investigations have not been completed as required by  
20 subdivision (1)(b) of section 20-326;

21           (ii) Determinations have not been made within the time  
22 specified in section 20-333; and

23           (iii) Hearings have not been commenced or findings and

1 conclusions have not been made as required by section 20-337;

2 (3) Cooperate with and render technical assistance to  
3 state, local, and other public or private agencies, organizations,  
4 and institutions which are formulating or carrying on programs to  
5 prevent or eliminate discriminatory housing practices; ~~and~~

6 (4) Annually report to the Legislature and make available  
7 to the public data on the age, race, color, religion, national  
8 origin, handicap, familial status, and sex of persons and  
9 households who are applicants for, participants in, or  
10 beneficiaries or potential beneficiaries of programs administered  
11 by the commission. In order to develop the data to be included and  
12 made available to the public under this subdivision, the commission  
13 shall, without regard to any other provision of law, collect such  
14 information relating to those characteristics as the commission  
15 determines to be necessary or appropriate;

16 (5) Adopt and promulgate rules and regulations, subject  
17 to the approval of the commissioners, regarding the investigative  
18 and conciliation process that provide for testing standards,  
19 fundamental due process, and notice to the parties of their rights  
20 and responsibilities; and

21 (6) Have authority to enter into agreements with the  
22 United States Department of Housing and Urban Development in  
23 cooperative agreements under the Fair Housing Assistance Program.  
24 The commission shall further have the authority to enter into  
25 agreements with testing organizations to assist in investigative  
26 activities. The commission shall not enter into any agreements  
27 under which compensation to the testing organization is partially

1 or wholly based on the number of conciliations, settlements, and  
2 reasonable cause determinations.

3           Sec. 26.     Section 20-326, Revised Statutes Supplement,  
4 2004, is amended to read:

5           20-326.   (1) (a) (i) An aggrieved person may, not later  
6 than one year after an alleged discriminatory housing practice has  
7 occurred or terminated, file a complaint with the commission  
8 alleging such discriminatory housing practice. The commission, on  
9 its own initiative, may also file such a complaint.

10           (ii) The complaint shall be in writing and shall contain  
11 such information and be in such form as the commission requires.

12           (iii) The commission may also investigate housing  
13 practices to determine whether a complaint should be brought under  
14 this section.

15           (b) Upon the filing of a complaint:

16           (i) The commission shall serve notice upon the aggrieved  
17 person acknowledging such filing and advising the aggrieved person  
18 of the time limits and choice of forums provided under the Nebraska  
19 Fair Housing Act;

20           (ii) The commission shall, not later than ten days after  
21 such filing or the identification of an additional respondent under  
22 subsection (2) of this section, serve on the respondent a notice  
23 identifying the alleged discriminatory housing practice, and  
24 advising such respondent of the procedural rights and obligations  
25 of respondents under the act, ~~and informing the respondent of the~~  
26 ~~right at any time, upon request, to obtain information derived from~~  
27 ~~an investigation and any investigative report relating to that~~

1 investigation as provided in subsections (2) and (3) of section  
2 ~~20-330~~, together with a copy of the original complaint;

3 (iii) Each respondent may file, not later than ten days  
4 after receipt of notice from the commission, an answer to the  
5 complaint; and

6 (iv) Unless it is impracticable to do so, the commission  
7 shall investigate the alleged discriminatory housing practice and  
8 complete such investigation within one hundred days after the  
9 filing of the complaint or, when the commission takes further  
10 action under section 20-332 with respect to a complaint, within one  
11 hundred days after the commencement of such further action.

12 (c) If the commission is unable to complete the  
13 investigation within one hundred days after the filing of the  
14 complaint or after the commencement of such further action, the  
15 commission shall notify the complainant and respondent in writing  
16 of the reasons for not doing so.

17 (d) Complaints and answers shall be under oath and may be  
18 reasonably and fairly amended at any time.

19 (2) (a) A person who is not named as a respondent in a  
20 complaint but who is identified as a respondent in the course of  
21 investigation may be joined as an additional or substitute  
22 respondent upon written notice under subdivision (1) (b) (ii) of this  
23 section to such person from the commission.

24 (b) The notice shall explain the basis for the  
25 commission's belief that the person to whom the notice is addressed  
26 is properly joined as a respondent.

27 Sec. 27. Section 20-327, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           20-327. (1) During the period beginning with the filing  
3 of the complaint and ending with the issuance of a charge or a  
4 dismissal by the commission, the commission shall, to the extent  
5 feasible, engage in conciliation with respect to the complaint.

6           (2) A conciliation agreement shall be an agreement  
7 between the complainant and the respondent and shall be subject to  
8 the approval of the commissioners, which approval may not be  
9 delegated.

10           (3) A conciliation agreement arising out of such  
11 conciliation shall be an agreement between the respondent and the  
12 complainant and shall be subject to approval by the commission.

13           ~~(3)~~ (4) A conciliation agreement may provide for binding  
14 arbitration of the dispute arising from the complaint. Any such  
15 arbitration that results from a conciliation agreement may award  
16 appropriate relief, including monetary relief.

17           ~~(4)~~ (5) Each conciliation agreement shall be made public  
18 unless the complainant and respondent otherwise agree and the  
19 commission determines that disclosure is not required to further  
20 the purposes of the Nebraska Fair Housing Act.

21           ~~(5)~~ (6) A conciliation agreement between a respondent and  
22 complainant which has been approved by the commission shall not be  
23 deemed an adjudication that the respondent has committed a  
24 discriminatory housing practice nor shall the conciliation  
25 agreement be the subject of an order for relief under section  
26 20-337, unless the conciliation agreement is entered after an  
27 adjudication pursuant to an administrative proceeding or a civil

1 action pursuant to state or federal law in which the respondent was  
2 found to have committed a discriminatory housing practice.

3 Sec. 28. Section 20-330, Revised Statutes Supplement,  
4 2004, is amended to read:

5 20-330. (1) Except as provided in subsection ~~(4)~~ (5) of  
6 section 20-327, nothing said or done in the course of conciliation  
7 may be made public or used as evidence in a subsequent proceeding  
8 under the Nebraska Fair Housing Act without the written consent of  
9 the persons concerned. All records compiled in the course of  
10 conciliation activities shall be exempt from public release. The  
11 commission may release any fully executed conciliation agreement.

12 ~~(2)~~ (2)(a) Notwithstanding subsection (1) of this  
13 section, the commission shall make available to the aggrieved  
14 person and the respondent, at any time, upon request, following the  
15 completion of an investigation, information derived from an  
16 investigation and any final investigative report relating to that  
17 investigation.

18 (b) The commission's release of information pursuant to  
19 subdivision (2)(a) of this section is subject to the federal  
20 Privacy Act of 1974, Public Law 93-579, as such act existed on  
21 January 1, 2005, and any other state or federal laws limiting the  
22 release of confidential information obtained in the course of an  
23 investigation under the Nebraska Fair Housing Act.

24 (3) Notwithstanding subsections (1) and (2) of this  
25 section, materials in the investigative file shall be disclosed to  
26 the complainant and respondent to the extent reasonably necessary  
27 to further the investigation or conciliation discussions.

AM0838  
LB 361  
NPN-03-16

AM0838  
LB 361  
NPN-03-16

1           ~~(3) Notwithstanding subsection (1) of this section, in~~  
2     ~~any case in which the complaint is filed by the commission and~~  
3     ~~there is no aggrieved person, or in which a complaint is filed and~~  
4     ~~the only aggrieved person is a tester or a testing organization,~~  
5     ~~the commission shall provide to the respondent at any time, upon~~  
6     ~~request, copies of all information derived from an investigation~~  
7     ~~and copies of any final investigative report relating to that~~  
8     ~~investigation. All personal identification information of testers~~  
9     ~~shall be removed from the copies provided. The commission may~~  
10    ~~charge a fee, not to exceed actual cost, for copies provided under~~  
11    ~~this subsection."~~.

12           2. On page 37, line 14, after "sections" insert "20-325,  
13     20-327,".

14           3. Renumber the remaining sections accordingly.