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et al.

H.B. No. 1463

A BILL TO BE ENTITLED

AN ACT

relating to procedures for actions alleging failure to comply with certain standards to accommodate persons with disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 121.004(b), Human Resources Code, is amended to read as follows:

(b) In addition to the penalty provided in Subsection (a), a person, including a firm, association, corporation, or other public or private organization, or the agent of the person, who violates the provisions of Section 121.003 is deemed to have deprived a person with a disability of his or her civil liberties. Subject to Section 121.0041, if applicable, the ~~[The]~~ person with a disability deprived of his or her civil liberties may maintain an ~~[a cause of]~~ action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least \$300 to the person with a disability.

SECTION 2. Chapter 121, Human Resources Code, is amended by adding Section 121.0041 to read as follows:

Sec. 121.0041. PROCEDURES FOR CERTAIN ACTIONS; OPPORTUNITY TO CURE. (a) In this section:

(1) "Claimant" means a person filing or intending to file an action under Section 121.004(b).

(2) "Respondent" means the person against whom a claimant files or intends to file an action under Section

1 121.004(b).

2 (b) This section applies only to an action under Section
3 121.004(b) alleging a failure to comply with applicable design,
4 construction, technical, or similar standards required under
5 Chapter 469, Government Code, or other applicable state or federal
6 laws that require compliance with specified design, construction,
7 technical, or similar standards, including Internet website
8 accessibility guidelines, to accommodate persons with
9 disabilities.

10 (c) Not later than the 60th day before the date an action to
11 which this section applies is filed, the claimant must give written
12 notice of the claim to the respondent. The notice may be given in a
13 manner prescribed for service of process in a civil action. The
14 written notice:

15 (1) must state:

16 (A) the name of the individual alleging a failure
17 to comply with applicable design, construction, technical, or
18 similar standards;

19 (B) in reasonable detail, each alleged
20 violation; and

21 (C) the date, place, and manner in which the
22 claimant discovered the alleged violation; and

23 (2) may not demand a sum of damages, request
24 settlement, or offer to settle the claim without a determination of
25 whether a condition stated in the notice is excused by law or may be
26 remedied.

27 (d) A respondent who has received a written notice under

1 Subsection (c) may correct the alleged violation before the
2 earliest date on which the claimant may file the action.

3 (e) A respondent who has corrected an alleged violation
4 shall provide a notice of the correction to the claimant that
5 describes each correction and the manner in which the correction
6 addresses the alleged violation. If the respondent concludes that
7 an alleged violation has not occurred and that a correction is not
8 necessary, the respondent shall provide the claimant an explanation
9 of the respondent's conclusion. The notice of correction or
10 explanation may be given in a manner prescribed for service of
11 process in a civil action.

12 (f) If a claimant files an action to which this section
13 applies, the claimant must establish by a preponderance of the
14 evidence that the respondent has not corrected one or more of the
15 alleged violations stated in the written notice provided under
16 Subsection (c).

17 (g) If an action is filed, the respondent may file a plea in
18 abatement and request an evidentiary hearing on the plea. The court
19 shall abate the action for a period not to exceed 60 days after the
20 date of the hearing if the court finds by a preponderance of the
21 evidence that:

22 (1) the respondent initiated action to correct the
23 alleged violation during the time allowed under Subsection (d);

24 (2) the respondent could not complete the corrections
25 within that time; and

26 (3) the corrections will be completed by the end of the
27 period of abatement.

1 (h) If a respondent has provided the notice of correction or
2 has completed corrections during a period of abatement under
3 Subsection (g):

4 (1) the claimant may file a motion to dismiss the
5 action without prejudice; or

6 (2) the respondent may file a motion for summary
7 judgment in accordance with the Texas Rules of Civil Procedure.

8 SECTION 3. This Act takes effect September 1, 2017.