

By: Smithee, Villalba, et al.

H.B. No. 1463

Substitute the following for H.B. No. 1463:

By: Smithee

C.S.H.B. No. 1463

A BILL TO BE ENTITLED

AN ACT

1
2 relating to procedures for actions alleging failure to comply with
3 certain standards to accommodate persons with disabilities.

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

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

7 (b) In addition to the penalty provided in Subsection (a), a
8 person, including a firm, association, corporation, or other public
9 or private organization, or the agent of the person, who violates
10 the provisions of Section 121.003 is deemed to have deprived a
11 person with a disability of his or her civil liberties. Subject to
12 Section 121.0041, if applicable, the [The] person with a disability
13 deprived of his or her civil liberties may maintain an [a cause of]
14 action for damages in a court of competent jurisdiction, and there
15 is a conclusive presumption of damages in the amount of at least
16 \$300 to the person with a disability.

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

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

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

23 (2) "Respondent" means the person against whom a
24 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:

20 (i) each condition on the respondent's
21 premises or Internet website that does not comply with an
22 applicable design, construction, technical, or similar standard on
23 which the claim is based; and

24 (ii) each design, construction, technical,
25 or similar standard alleged to have been violated; and

26 (C) the time, place, and manner in which the
27 claimant discovered the alleged violation; and

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

5 (d) A respondent who has received a written notice under
6 Subsection (c) may correct the alleged violation before the
7 earliest date on which the claimant may file the action.

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

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

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

27 (1) the respondent initiated action to correct the

1 alleged violation during the time allowed under Subsection (d);

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

4 (3) the corrections will be completed by the end of the
5 period of abatement.

6 (h) If a respondent has provided the notice of correction or
7 has completed corrections during a period of abatement under
8 Subsection (g):

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

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

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