#### **GENERAL ASSEMBLY OF NORTH CAROLINA**

#### **SESSION 1989**

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## HOUSE BILL 865 Committee Substitute Favorable 5/11/89

Short Title: Gastonia Fair Housing.

Sponsors:

Referred to:

## March 27, 1989

#### A BILL TO BE ENTITLED

## 2 AN ACT TO AMEND THE GASTONIA FAIR HOUSING ACT.

3 The General Assembly of North Carolina enacts:

4 Section 1. Section 1 of Chapter 902 of the 1985 Session Laws, as rewritten 5 by Section 1 of Chapter 931, Session Laws of 1987, is rewritten to read:

"Section 1. (a) The City Council of Gastonia may adopt ordinances to prohibit 6 discrimination in real estate transactions based on race, color, national origin, religion, 7 age, sex, handicap or familial status. For purposes of this act, 'real estate transactions' 8 9 shall include those practices involving real estate transactions set forth in and covered by Title VIII of the Civil Rights Act of 1968, as amended. To assist in the enforcement 10 of such ordinances, the City Council may authorize or create an agency or commission 11 of the City of Gastonia, hereinafter referred to as 'the agency', to take such actions and 12 to have such powers and duties as may be appropriate and necessary to implement and 13 14 enforce the ordinances, including the following:

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- (1) To receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon complaints arising under the ordinances;
- 17 (2) To mediate alleged violations of the ordinances and to negotiate 18 written conciliation agreements relating thereto, which agreements 19 may include provisions for monetary damages, affirmative or specific 20 relief and attorney's fees;
- (3) To seek temporary restraining orders and preliminary injunctions from
   the Superior Court of Gaston County when reasonably necessary to

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(Local)

1		carry out the purposes of the ordinances or to maintain the status quo
2		during pendency of its proceedings;
3	(4)	To issue orders against persons it finds, after notice and hearing, to
4		have violated the ordinances;
5	(5)	To seek judicial enforcement of its orders and written conciliation
6		agreements in the Superior Court of Gaston County; and
7	(6)	To seek enforcement of its orders and written conciliation agreements
8		before administrative law judges in cases where the parties thereto
9		consent to a hearing before an administrative law judge as opposed to
10		one held before a judge of the Superior Court of Gaston County.
11	(b) Such	ordinances may provide for the designation of a Fair Housing officer or
12	officers who may perform designated duties in order to assist the agency in performing	
13	its responsibilities under the ordinances, including but not limited to those regarding the	
14	initiation, receipt, investigation and conciliation of complaints arising under the	
15	ordinances. Further, such ordinances may provide that the Fair Housing officer(s) has	
16	the authority to make preliminary findings as to whether or not there is reasonable cause	
17	to believe the ordinances have been violated; provided, any party aggrieved thereby	
18	shall have the right to be heard before the agency within a reasonable time after	
19	receiving notice of the finding made by the Fair Housing officer(s)."	
20	Sec. 2. Section 3 of Chapter 902 of the 1985 Session Laws is rewritten to	
21	read:	
22	"Sec. 3. (a)	Any person aggrieved by a decision of the agency shall have the
23	right to request	a hearing de novo by filing a civil action in the Superior Court of
24	Gaston County	against the person allegedly violating the ordinances, provided such
25	action is filed within a reasonable time of receipt of the agency's decision. If such	
26	action is filed in a case where the agency found a violation to have occurred, the agency	
27	by and through its attorney shall appear on behalf of and represent the original	
28	complainant and shall bear the burden of proof on the issue of whether the ordinances	
29	were in fact violated. Reasonable attorney's fees and costs shall be recoverable by the	
30	prevailing party in the court's discretion and the court may order any appropriate relief	

prevailing party in the court's discretion and the court may order any appropriate relief
including actual monetary damages, injunctive or other equitable relief and punitive
damages.
(b) The ordinances may also provide that as an alternative to the aforesaid right

33 (b) The ordinances may also provide that as an alternative to the aforesaid right 34 to bring a civil action in Superior Court, any person aggrieved by a decision of the 35 agency may elect to have the matter heard instead by an administrative law judge, 36 provided the other party or parties consent thereto. In such cases the hearing shall be 37 conducted in Gaston County and shall have all the attributes of a court trial, and the 38 provisions of subsection (a) of this section shall still apply, except that the 39 administrative law judge may assess only civil penalties and not punitive damages 40 against any person found to have violated the ordinances.

41 (c) Any person aggrieved by the decision of the Superior Court or the
42 administrative law judge pursuant to subsections (a) or (b) of this section may appeal
43 such decision to the North Carolina appellate division according to the rules of civil
44 procedure applicable to other civil cases."

# **GENERAL ASSEMBLY OF NORTH CAROLINA**

1 2 read: 3 If within 60 days after entry of an order of the agency, the respondent has not "(a) complied with the order and no person aggrieved thereby has requested a de novo 4 5 hearing pursuant to Sections 3(a) or 3(b) of this act, the agency or any aggrieved person may petition the Superior Court of Gaston County for an order of the court enforcing 6 7 the order of the agency. Such petition shall be heard by the Superior Court as a matter in the nature of certiorari as hereinafter set forth." 8 9 Sec. 4. Section 5 of Chapter 902 of the 1985 Session Laws as rewritten by 10 Section 2 of Chapter 931, Session Laws of 1987, is rewritten to read: 11 "Sec. 5. The ordinances may include provisions requiring (i) that handicapped 12 persons be allowed to make reasonable modifications or alternations to existing 13 premises at their own expense if necessary to afford them full enjoyment of such 14 premises; and (ii) that multifamily dwellings consisting of four or more units and 15 intended for initial occupancy after March 13, 1991, be designed and constructed 16 subject to specified requirements in order to ensure that units therein are readily 17 accessible to, and adaptable to the use of, handicapped persons." 18 Sec. 5. This act is effective upon ratification.

Sec. 3. Section 4(a) of Chapter 902 of the 1985 Session Laws is amended to

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