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New year, new penalties for housing discrimination

On Jan. 1, penalties for violating the fair housing provisions of the Illinois Human Rights Act increased. Offenders may now be assessed up to \$16,000 instead of \$10,000 for first offenses, \$42,500 instead of \$25,000 for second violations within a five-year period and \$70,000 up from \$50,000 for multiple violations within the past seven years.

These changes bring Illinois law in line with inflation-adjustment increases to the federal law effective last August. Federal penalties are slightly higher, but the bottom line is that it is now going to cost you more if you violate the law.

The unique enforcement structure of fair housing laws allows for administrative claims to be brought under federal and state laws simultaneously, so violators theoretically may be assessed penalties under both.

Also, since civil penalties are awarded on top of damages, attorney fees and costs, the financial exposure can be quite significant for violators.

Penalties may be assessed for each separate and distinct violation, and they may be awarded against each respondent as appropriate. An administrative law judge determines the amount of

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the penalties, while in most court cases, the jury determines the amount.

Factors the administrative law judge is required to consider include the nature of the violation and the surrounding circumstances, financial resources of the accused, the goal of deterrence and any other factors the justice may require.

Increased penalties are also available in cases involving housing-related hate crimes.

Discrimination should not pay. When monetary sanctions are too low, would-be violators may just make the tactical decision to keep on discriminating because discrimination is big business.

Civil penalties in individual cases are available only in administrative actions under the state housing act. In court actions, punitive damages, rather than civil penalties, may be awarded in individual cases.

A big difference between the two awards is that civil penalties generally inure to the government while punitive damages are awarded to the victim. While it is unfortunate that both are not available in administrative actions, it is good that there is some mechanism to address the public interest that is violated when housing discrimination occurs.

Indeed, one need only look at how housing discrimination in Chicago continues to limit opportunities for protected classes and perpetuate the cycle of poverty to see the harm it causes to the community at large.

In the author's view, increased penalties for housing discrimination are a good start to 2017.

While nonmonetary relief including injunctions, training and monitoring is critical to effective fair housing enforcement, damages and penalties hit where it hurts.

Discrimination should not pay. When monetary sanctions are too low, would-be violators may just make the tactical decision to keep on discriminating because discrimination is big business.

Unscrupulous landlords, banks and other housing providers increase profits by charging higher prices and otherwise ripping off vulnerable protected classes. Those doing so in Illinois may now pay big bucks.