
**FLORIDA ADMINISTRATIVE CODES FROM THE FCHR
[CHAPTER 60Y-7]**

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TABLE OF CONTENTS | HOUSING DISCRIMINATION

#	Code	Title	Page
1	60Y-7.001	Complaints	4
2	60Y-7.002	Answer	8
3	60Y-7.003	Referral of Complaints	9
4	60Y-7.004	Investigation of Complaints	10
5	60Y-7.005	Conciliation	13
-	n/a	Appendix	14

FLORIDA ADMINISTRATIVE CODES | FCHR | HOUSING DISCRIMINATION

CODES: 60Y-6.001 through 60Y-25.007

AS OF: 2/4/2016

60Y-7.001 | COMPLAINTS

(1) Who may file. A complaint may be filed by any person who claims to have been injured by a discriminatory housing practice or any person who believes that he will be injured by a discriminatory housing practice that is about to occur.

(2) Time for Filing. A complaint may be filed at any time within one year of the occurrence of the alleged discriminatory housing practice. If the alleged discriminatory housing practice is of a continuing nature, the date of the occurrence may be any date subsequent to the commencement of the discriminatory housing practice up to and including the date on which it shall have ceased.

(3) Place and Date of Filing. A complaint shall be filed at the office of the Commission. The date of filing shall be the date of actual receipt of the complaint by the Clerk or other agent of the Commission. Any document received by the Clerk or other agent of the Commission after 5:00 p.m. (Eastern Time) shall be filed as of 8:00 a.m. on the next regular business day.

(4) Form. The complaint must be in writing and shall be signed by the complainant. The complaint shall be verified.

(5) Contents.

(a) The complaint should contain the following information:

1. The name, address and telephone number of the person filing the complaint;
2. The name, address and telephone number of the respondent;
3. A clear and concise statement of the facts, including pertinent dates, constituting the discriminatory housing practice;
4. If known, a statement disclosing whether proceedings involving the alleged discriminatory housing practice have been commenced before a Federal, State or local agency charged with enforcement of fair housing practice laws and, if so, the date of such commencement and the name of the agency.

(b) Notwithstanding the provision of paragraph (a) of this subsection, a complaint is sufficient if it is in writing under oath or affirmation and is sufficiently precise to identify the parties and to describe generally the action or practice complained of.

(6) Amendments.

(a) A complaint may be amended within 60 days after filing and, thereafter, with the consent of the Executive Director upon discovery of new facts or upon a finding that information previously provided by the respondent was misrepresented.

(b) A complaint may be amended to cure technical defects, or omissions, including verification, or to clarify and amplify allegations made therein. Such amendments and amendments which describe an additional discriminatory housing practice relating to or growing out of the subject matter of the original complaint will relate back to the date the complaint was first received.

(c) An amendment adding or changing a respondent will relate back to the date the complaint was first received if, within the period provided by subsection (2) of this section, the new respondent (i) has received such notice of the filing of the complaint as is sufficient to avoid prejudice in a defense on the merits, and (ii) knew or should have known that, but for a mistake concerning identity of the proper respondent, the complaint would have been filed against the new respondent.

(7) Withdrawal. A complaint may be withdrawn by a complainant at any time; however, following the issuance of a Notice of Determination, withdrawal may be made only with the consent of the Executive Director.

(8)

(a)

1. Notice to Respondent. When it is determined that a complaint is complete and has been timely filed, the Executive Director shall cause notice of the filing and a copy of the complaint to be served upon the respondent. Notice should be served within 10 days of the date of filing. An amendment likewise shall be served upon the respondent.

2. The notice shall advise the respondent of relevant procedural rights and obligations by referencing, for example, Sections 760.20-760.37, F.S., and Chapters 60Y-6, 60Y-7, 60Y-8, and 60Y-9, F.A.C.

3. The notice shall advise the respondent of the complainant's right to commence a civil action under Section 760.35, F.S., in court, not later than two years after the occurrence or termination of the alleged discriminatory housing practice. If filed in federal court under federal law, the notice will state that the computation of this two-year period excludes any time during which the matter is pending for administrative relief with respect to a complaint or charge based on the alleged discriminatory housing practice. The notice will also state, however, that the time period includes the time during which an action arising from a breach of a conciliation agreement under Section 760.36, F.S., is pending.

4. The notice shall advise the respondent that retaliation against any person because he or she made a complaint or testified, assisted or participated in an investigation or conciliation under Florida's Fair Housing Act is a discriminatory housing practice that is prohibited.

(b) Notice to Complainant.

1. The Commission shall serve notice upon the complainant acknowledging the filing of the complaint, advising the complainant of the time limits set forth in Rule 60Y-7.004, F.A.C.

2. The Commission shall serve notice upon the complainant advising the complainant of the statutory remedies and choice of forums by referencing Sections 760.34, 760.35 and 760.37, F.S., and by informing the complainant that Section 760.34, F.S., is neither an obstacle nor a prerequisite to commencement of a separate civil action on his own under Section 760.35, F.S.

3. The notice shall advise the complainant of his right to commence a civil action under Section 760.35, F.S., in a court, not later than two years after the occurrence or termination of the alleged discriminatory housing practice. The notice will state that, if filing in federal court under federal law, the computation of this two-year period excludes any time during which the matter is pending for administrative relief with respect to a complaint or charge, based on the alleged discriminatory housing practice. The notice will also state, however, that the time period includes the time during which an action arising from a breach of a conciliation agreement under Section 760.36, F.S., is pending.

4. The notice shall advise the complainant that retaliation against any person because he or she made a complaint or testified, assisted, or participated in an investigation or conciliation under Florida's Fair Housing Act is a discriminatory housing practice that is prohibited.

5. Upon an investigatory determination of reasonable cause, the Commission shall serve notice upon the complainant advising the complainant that at the election of the complainant, the Attorney General shall bring an action in the name of the state on behalf of the complainant to enforce the provisions of Sections 760.20-.37, F.S.

6. The complainant must make his election within 20 days after receipt of the notice. If an election is made for a civil action by the Attorney General, then a civil action shall be commenced and maintained within a reasonable time from the date of the election.

7. In addition, complainant shall be advised that, as an alternative to the Attorney General bringing an action, the Commission will petition for an administrative hearing and seek relief for complainant under Section 120.57, F.S., and prosecute the matter to a final agency order, which may include defending against an appeal by the respondent.

8. At all times, however, Complainant retains the right to seek administrative or judicial relief without governmental assistance.

(9) Maintenance of Records. Once a complaint has been served on the respondent, the respondent shall preserve all records and other evidence which may pertain to the complaint until the matter has been finally determined.

Specific Authority 760.31(5) FS. Law Implemented 760.34 FS. History–New 1-25-90, Amended 11-20-91, Formerly 22T-21.001, Amended 9-17-98, 12-31-03.

60Y-7.002 | ANSWER

(1) Respondent may file an answer to the complaint within 20 days of the date of notice of the filing. The answer shall be verified.

(2) The answer may be reasonably and fairly amended at any time prior to the issuance of a Notice of Determination.

Rulemaking Authority 760.31(5) FS. Law Implemented 760.34 FS. History—New 1-25-90, Formerly 22T-21.002, Amended 12-31-03.

60Y-7.003 | REFERRAL OF COMPLAINTS

Wherever a local fair housing law provides rights and remedies for alleged discriminatory housing practices which are substantially equivalent to the rights and remedies provided in the Fair Housing Act, the Commission shall notify the appropriate local agency of any complaint filed under the Act which appears to constitute a violation of the local fair housing law, and the Commission shall take no further action with respect to such complaint if the local law enforcement official has, within 30 days from the date the alleged offense was brought to the official's attention, commenced proceedings in the matter. In no event shall the Commission take further action unless it certifies that in its judgment, under the circumstances of the particular case, the protection of the rights of the parties or the interests of justice require such action.

Rulemaking Authority 760.31(5) FS. Law Implemented 760.34 FS. History—New 1-25-90, Formerly 22T-21.003.

60Y-7.004 | INVESTIGATION OF COMPLAINTS

(1)

(a) By whom. The investigation of the complaints shall be made by the Office of Housing Investigations or by any other person designated by the Executive Director. The Executive Director may utilize services of other public agencies, state, local or federal, which are charged with the administration of fair housing practice laws, and may utilize the information gathered by such.

(b) Investigatory proceedings shall commence before the end of the 30th day after receipt of the complaint.

(2) Statement of Complainant. During the course of an investigation, the complainant may be required to provide a statement which includes:

(a) A statement of each particular harm which the aggrieved person has suffered and the date on which each harm occurred.

(b) For each harm, a statement specifying the act, policy or practice which is alleged to be unlawful.

(c) For each act, policy or practice alleged to have harmed the aggrieved person, a statement of the facts which lead the complainant to believe that the act, policy or practice is discriminatory.

(3) Requests for Information. During the course of an investigation, the Office of Housing Investigations may request of any person information concerning the facts and circumstances of the complaint. Requests for information may be made in the following manner:

(a) Oral interviews;

(b) Written interrogatories;

(c) Requests for production of documents;

(d) Requests for entry upon land for inspection and other purposes;

(e) Requests for a written statement or affidavit.

(4) Failure to Cooperate - Complainant. Where the complainant fails to provide a necessary statement, fails or refuses to appear or be available for interviews or meetings, fails or refuses to provide necessary information requested by the Office of Housing Investigations pursuant to this section or otherwise refuses to cooperate to the extent that the Office of Housing Investigations is unable to resolve the complaint, and where after notice the complainant has failed to duly respond to the Office of Housing Investigations, the Executive Director may dismiss the complaint based upon complainant's failure to cooperate.

(5) Subpoena. The Commission and the respondent may compel access to or the production of documents or the appearance of persons under the following conditions:

(a) The Executive Director may issue subpoenas to compel access to or the production of documents or the appearance of such persons as are reasonably necessary for the investigation.

(b) The respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Commission to the same extent and subject to the same limitations as subpoenas issued by the Commission on its own initiative.

(c) Each subpoena shall state the name and address of the issuer, identify the person subpoenaed, and identify the person to whom and the place, date and time at which it is returnable.

(d) Within 5 days after service of a subpoena upon any person, such person may petition the Executive Director to revoke or modify the subpoena. The Executive Director shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, or that compliance would be unduly onerous or for other good reason.

(e) In case of refusal to obey a subpoena, the Executive Director or the person at whose request the subpoena was issued may petition for its enforcement in the circuit court for the county in which the person to whom the subpoena was addressed resides, was served or transacts business.

(6) Access to Files During Investigation. Information obtained during the investigation of a complaint shall be disclosed only to the complainant, respondent or their authorized representative, or to a witness, only when disclosure is deemed necessary for the investigation or for securing appropriate disposition of the complaint.

(7) Negotiated Settlement. During the mediation and investigation processes, the Commission shall endeavor to encourage the complainant and the respondent to settle the complaint on mutually agreeable terms. If the settlement is achieved by a Negotiated Settlement Agreement, its terms shall be reduced to writing and signed and dated by the complainant and the respondent. If a settlement is achieved as a Withdrawal with Settlement, only the complainant need sign and date. A copy of the agreement shall be filed with the Clerk. A complaint which has been settled may be dismissed by the Executive Director upon such terms and at such time as may be provided in the written agreement subject to compliance.

(8)

(a) Within 100 days after receiving a complaint or within 100 days after the expiration of any period of reference under Rule 60Y-7.003, F.A.C., the Commission shall investigate the complaint and give notice in writing to the person aggrieved whether the investigatory determination is "No Cause" or "Cause."

(b) If the Commission is unable to complete its investigation within 100 days, it shall notify the complainant and respondent in writing of the reasons for not doing so.

(9) If the investigatory determination is "No Cause," the Executive Director shall issue a "Notice of Determination (No Cause)" and serve it upon the complainant and the respondent. The "Notice of Determination (No Cause)" shall state that the complainant may request an administrative hearing by filing a Petition for Relief from a Discriminatory Housing Practice within 30 days of service of the notice. A form, Petition for Relief, in blank, shall be provided to the complainant at the time of service of the "Notice of Determination (No Cause)".

(10) If the investigatory determination is "Cause," the Executive Director shall issue a "Notice of Determination (Cause)" and serve it upon the complainant and the respondent. The notice shall inform the complainant of the options and mandated times for action outlined in paragraph 60Y-7.001(8)(b), F.A.C. Concurrently, the Commission may also attempt to conciliate the case pursuant to Rule 60Y-7.005, F.A.C.

(11) The Commission will make final administrative disposition of a complaint within 100 days of the date of receipt of the complaint, unless it is impracticable to do so. If the Commission is unable to do so, it shall notify the complainant and respondent in writing of the reasons for not doing so.

Rulemaking Authority 760.31(5) FS. Law Implemented 760.34 FS. History—New 1-25-90, Amended 11-20-91, Formerly 22T-21.004, Amended 11-18-92, 12-31-03.

60Y-7.005 | CONCILIATION

(1) If the Commission decides to resolve the complaint, it shall endeavor to eliminate any discriminatory housing practice by informal methods of conference, conciliation and persuasion. Insofar as possible, conciliation meetings shall be held in the city or other locality where the discriminatory housing practice allegedly occurred.

(2) The Commission shall attempt to achieve a just resolution of all violations found, and to obtain agreement that the respondent will eliminate the discriminatory housing practice and provide appropriate affirmative relief. Where such conciliation attempts are successful, the terms of the conciliation agreement shall be reduced to writing and signed by the complainant, the respondent and the Executive Director or person designated by the Executive Director. The original of the signed agreement shall be filed with the Clerk, and copies shall be served upon the respondent and the complainant.

(3) A duly executed conciliation agreement shall operate as a dismissal of the complaint; however, prior to the filing of the conciliation agreement, the parties may stipulate therein to bringing the agreement before a Panel of Commissioners. The Panel in its discretion may adopt the conciliation agreement as a consent order.

(4) If a conciliation agreement has not been signed and the complaint has not been withdrawn or dismissed within the time period established for filing a Petition for Relief, the Executive Director shall dismiss the complaint.

Rulemaking Authority 760.31(5) FS. Law Implemented 760.34 FS. History—New 1-25-90, Formerly 22T-21.005, Amended 11-18-92, 12-31-03.

APPENDIX

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