
**FLORIDA ADMINISTRATIVE CODES FROM THE FCHR
[ALL HOUSING DISCRIMINATION CODES]**

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FLORIDA ADMINISTRATIVE CODES | FCHR | HOUSING DISCRIMINATION

CODES: 60Y-6.001 through 60Y-25.007

AS OF: 2/4/2016

60Y-6.001 | DEFINITIONS

As used in the rules of the Commission:

(1) "Accessible," when used with respect to the public and common use areas of a building containing covered multifamily dwellings, means that the public or common use areas of the building can be approached, entered and used by individuals with physical handicaps. The phrase "readily accessible to and usable by" is synonymous with accessible. A public or common use area that complies with the appropriate requirements of ANSI A117.1-1986 or a comparable standard is "accessible" within the meaning of this subsection.

(2) "Accessible route" means a continuous unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps and lifts. A route that complies with the appropriate requirements of ANSI A117.1-1986 or a comparable standard is an "accessible route."

(3) "Act" means the Fair Housing Act, as amended, Section 760.20-760.37, F.S.

(4) "Aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice or who believes that such person will be injured by a discriminatory housing practice.

(5) "ANSI A117.1-1986" means the 1986 edition of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people. Copies may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

(6) "Attorney General" means the Attorney General of the State of Florida.

(7) "Broker or agent" includes any person authorized to perform an action on behalf of another person regarding any matter related to the sale or rental of dwellings, including offers, solicitations or contracts and the administration of matters regarding such offers, solicitations or contracts or any residential real estate-related transactions.

(8) "Building" means a structure, facility or portion thereof that contains or serves one or more dwelling units.

(9) "Building entrance on an accessible route" means an accessible entrance to a building that is connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, or to public streets or sidewalks, if available. A building entrance that complies with ANSI A117.1-1986 or a comparable standard complies with the requirements of this subsection.

(10) "Chairperson" or "Chair" means the Chairperson of the Commission or Chairperson of a Panel, as the context may indicate.

(11) "Charge" means the statement of facts upon which the Commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

(12) "Clerk" means the person designated by the Executive Director as heading the Office of the Clerk.

(13) "Commission" means the Florida Commission on Human Relations.

(14) "Commissioner" means a member of the Commission.

(15) "Common use areas" means rooms, spaces or elements inside or outside of a building that are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas and passageways among and between buildings.

(16) "Complainant" means a person who filed a complaint.

(17) "Complaint" means a written, verified statement which alleges the occurrence of an unlawful housing practice and also includes an amended complaint.

(18) "Conciliation" means the attempted resolution of issues raised by a complaint or by the investigation of a complaint, through informal negotiations involving the aggrieved person, the respondent and the Commission.

(19) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(20) "Controlled substance" means any drug or other substance, or their immediate precursor, defined in Chapter 893, F.S.

(21) "Covered multifamily dwellings" means a building which consists of four or more dwelling units and has an elevator, or the ground floor units of a building which consists of four or more dwelling units and does not have an elevator.

(22) "Discriminatory housing practice" means an act which is unlawful under the terms of the Fair Housing Act, Sections 760.20-.37, F.S.

(23) "Division of Administrative Hearings" means the Division of Administrative Hearings of the Department of Administration.

(24) "Document" includes, but is not limited to, writings, drawings, graphs, charts, photographs, phono-records and other data compilations from which information can be obtained.

(25) "Dwelling" means any building or structure, or portion thereof, which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location on the land of any such building or structure, or portion thereof.

(26) "Dwelling unit" means a single unit of residence for a family or one or more persons. Examples of dwelling units include: a single family home; an apartment unit within an apartment building; and in other types of dwellings in which sleeping accommodations are provided but toileting or cooking facilities are shared by occupants of more than one room or portion of the dwelling, rooms in which people sleep. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.

(27) "Entrance" means any access point to a building or portion of a building used by residents for the purpose of entering.

(28) "Executive Director" means the Executive Director of the Commission.

(29) "Exterior" means all areas of the premises outside of an individual dwelling unit.

(30) "Fair Housing Act" means the act which is set forth in Chapter 760, F.S., Sections 760.20-.37, F.S.

(31) "Familial Status" is established when an individual who has not attained the age of 18 years is domiciled with a parent or other person having legal custody of such individual, or a designee of a parent or other person having legal custody, with written permission of such parent or other person.

(32) "Family" includes a single individual.

(33) "First occupancy" means a building that has never before been used for any purpose.

(34) "General Counsel" means the General Counsel of the Commission.

(35) "Ground floor" means a floor of a building with a building entrance on an accessible route. A building may have more than one ground floor.

(36) "Handicap" means a person who has a physical or mental impairment which substantially limits one or more major life activities, or has a record of having or is regarded as having such physical or mental impairment, or a person who has a developmental disability as defined in Section 393.063(6), F.S.

(37) "Has a record of having such impairment" means has a history of, or has been misclassified as having a mental or physical impairment.

(38) "Hearing" means an administrative hearing conducted pursuant to Chapter 120, F.S.

(39) "Hearing Officer" means the person assigned to conduct a hearing upon a petition filed with the Commission.

(40) "Is regarded as having an impairment" means having a physical or mental impairment that does not substantially limit one or more major life activities but is treated as if it does; having a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or having no physical or mental impairments but being treated as having such an impairment.

(41) "Interior" means the spaces, parts, components or elements of an individual dwelling unit.

(42) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(43) "Modification" means any change to the public or common use areas of a building or any change to a dwelling unit.

(44) "Panel" means a panel of three or more Commissioners convened for the purpose of holding hearings on petitions for relief from discriminatory housing practices.

(45) "Party" means any person designated as a party to a proceeding before the Commission, pursuant to rule of the Commission.

(46) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(47) "Person in the business of selling or renting dwellings" means any person who within the preceding twelve months has participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or within the preceding twelve months has participated as agent, other than in the sale of his personal residence, in providing sales of rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(48) "Petition" means a writing, other than a written motion, filed with the Commission pursuant to rule of the Commission requesting that specified action be taken by the Commission.

(49) "Petitioner" means a person who files a petition with the Commission.

(50) "Physical or mental impairment" includes any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current illegal use of a controlled substance) and alcoholism.

(51) "Premises" means the interior or exterior spaces, parts, components or elements of a building, including individual dwelling units and the public and common use areas of a building.

(52) "Public use areas" means interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.

(53) "Residential real estate transactions" means any of the following: the making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling; or the making or purchasing of loans or providing other financial assistance secured by residential real estate; or the selling, brokering or appraising of residential real estate property.

(54) "Respondent" means the person designated in the complaint as responsible for the alleged discriminatory housing practice or in the case of a petition, the person against whom relief is sought.

(55) "Site" means a parcel of land bounded by a property line or a designated portion of a public right of way.

(56) "Substantially equivalent" means an administrative subdivision of the State of Florida meeting the requirements of 24 C. F. R. Part 115, Section 115.6, F.S.

(57) "To rent" includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Rulemaking Authority 760.31(5) FS. Law Implemented 760.22-760.37 FS. History—New 1-25-90, Formerly 22T-20.001.

60Y-6.002 | CONSTRUCTION OF RULES

The rules of the Commission are intended to promote the purposes of the Act, the efficient operation of the Commission and the orderly administration of the Act. They are to be liberally construed to ensure the accomplishment of these purposes.

Rulemaking Authority 760.31(5) FS. Law Implemented 760.21 FS. History—New 1-25-90, Formerly 22T-20.002.

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.

60Y-8.001 | PETITION FOR RELIEF FROM A DISCRIMINATORY HOUSING PRACTICE

(1) Petition. A complainant may file a Petition for Relief from a Discriminatory Housing Practice within 30 days of service of a Notice of Determination (No Cause) or Notice of Determination (Cause). The Executive Director on behalf of the Commission may institute an action by filing a Petition for Relief from a Discriminatory Housing Practice upon determining there is reasonable cause to believe that a discriminatory practice has occurred and has been unable to obtain voluntary compliance with Sections 760.20-.37, F.S. The Clerk shall prepare copies of the petition and serve them upon all other parties named in the petition by certified mail.

(2) For good cause shown, the Chairperson may grant an extension of time to the complainant to file the Petition for Relief, provided the motion for extension of time is filed within the 30-day period.

(3) Procedures. Petitions for Relief, and proceedings thereupon, are governed by the provisions of Chapters 28-106 and 60Y-4, F.A.C., except as otherwise provided by this section.

(4) Final Orders; Relief; Remand. Upon consideration of a recommended order, the Commission or Panel may order that the petition and complaint be dismissed or may determine that a discriminatory housing practice has occurred. In the event the Commission or Panel determines that a discriminatory housing practice has occurred, it shall issue an order prohibiting the practice and providing relief from the effects of the practice, including quantifiable damages and reasonable attorney's fees and costs. The order of the Commission or Panel shall be final as to all matters except those which are remanded to the Administrative Law Judge.

(5) Voluntary Dismissal. A Petition for Relief filed by a complainant may be dismissed by the complainant without order of the Administrative Law Judge, Panel of Commissioners or Commission (i) by serving, or during hearing by stating on the record, a notice of dismissal at any time before the issuance of a recommended order or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. The dismissal operates with prejudice with respect to Petitioner's Chapter 760, F.S., administrative remedies and constitutes final agency action.

Rulemaking Authority 760.31(5) FS. Law Implemented 760.34, 760.35 FS. History—New 1-25-90, Formerly 22T-22.001, Amended 11-18-92, 2-5-04.

60Y-9.001 | PURPOSE

The purpose of the housing for older persons exemption to the general prohibition against discrimination because of familial status is to protect families with children from discrimination in housing without unfairly limited housing choices for older persons. Chapter 60Y-9, F.A.C., clarifies requirements related to housing for older persons pursuant to Section 760.29(4), F.S.

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History—New 8-15-90, Formerly 22T-23.001, Amended 2-5-04.

60Y-9.002 | GENERAL PROVISIONS

(1) Nothing in this chapter limits the applicability of any reasonable federal, state, or local restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(2) The prohibition against discrimination on the basis of familial status makes it unlawful to assign any person to a particular section of a facility, development, community or neighborhood or to a particular floor of a building because of familial status. Accordingly, no approval is given for a "dual purpose housing facility," i.e., a housing facility where specified units or sections are designated for older persons and other units or sections are open to everyone.

(3) Information relative to the age of an individual may be obtained when necessary for determining a facility's eligibility as housing for older persons.

(4) During any period that any health care worker is actually providing live-in, long-term or hospice health care to a qualified, older person resident for compensation, the occupancy of a housing unit by the health care worker shall not be considered in determining a facility's eligibility as housing for older persons.

(5) Temporary occupancy of a housing unit by a person, as a guest of a qualified, older person resident, shall not be considered in determining a facility's eligibility as housing for older persons.

(6) A housing provider may use any nondiscriminatory method of qualifying for the exemption available to housing for older persons, provided that the method used comports with applicable federal, state and local laws.

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History—New 8-15-90, Formerly 22T-23.002.

60Y-9.003 | HOUSING PROGRAM EXEMPTION

The provisions in Sections 760.20-.37, F.S., relating to familial status shall not apply to housing provided under any federal or state program that the Secretary of Housing and Urban Development and/or the commission determines is specifically designed and operated to assist elderly persons.

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History—New 8-15-90, Formerly 22T-23.003.

60Y-9.004 | HOUSING EXEMPTION FOR PERSONS 62 YEARS OF AGE OR OLDER

(1) The provisions in Sections 760.20-.37, F.S., relating to familial status shall not apply to housing intended for, and solely occupied by, persons 62 years of age or older.

(2) Housing satisfies the requirements of this section even though:

(a) There are persons residing in such housing on or after October 1, 1989, who are under 62 years of age, provided that all new occupants are persons 62 years of age or over.

(b) There are unoccupied units, provided that such units are reserved for occupancy by persons 62 years of age or over.

(3) Housing satisfies the requirements of this section even though a unit is occupied by employees of the housing provider (and family members residing in the same unit) who are under 62 years of age, provided they perform substantial duties directly related to the management or maintenance of the housing.

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History—New 8-15-90, Formerly 22T-23.004.

60Y-9.005 | HOUSING EXEMPTION FOR PERSONS 55 YEARS OF AGE OR OLDER

(1) The provisions in Sections 760.20-.37, F.S., relating to familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the housing complies with 24 C.F.R. part 100 as published in the Federal Register on Friday, April 2, 1999.

(2) Housing intended and operated for occupancy by at least one person 55 years of age or older per unit means:

(a) Housing for which at least 80% of the units in the housing facility are occupied by at least one person 55 years of age or older per unit except that a newly constructed housing facility for first occupancy after October 1, 1989, need not comply with this subsection until 25% of the units in the facility are occupied; and

(b) The owner or manager of the housing facility publishes and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of this subsection:

1. The manner in which the housing facility is described to prospective residents.
2. The nature of any advertising designed to attract prospective residents.
3. Age verification procedures.
4. Lease provisions.
5. Written rules and regulations.
6. Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.

(3) Housing satisfies the requirements of this section even though:

(a) Under 80% of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit, provided that at least 80% of the units that are occupied by new occupants on or after October 1, 1989, are occupied by at least one person 55 years of age or older.

(b) There are unoccupied units, provided that at least 80% of such units are reserved for occupancy by at least one person 55 years of age or over.

(4) Housing satisfies the requirements of this section even though a unit is occupied by employees of the housing provider (and family members residing in the same unit) who are under 55 years of age, provided they perform substantial duties directly related to the management or maintenance of the housing.

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History—New 8-15-90, Formerly 22T-23.005, Amended 2-5-04.

60Y-9.006 | PRECERTIFICATION PROCEDURE

(1) With respect to commission certification that a housing facility meets the foregoing requirements relating to housing for older persons, no designated precertification procedure is available.

(2) The commission, however, is authorized to issue a declaratory statement regarding the applicability of these rules under given circumstances in accordance with Section 120.565, F.S., and Chapter 28-4, F.A.C.

Specific Authority 120.565, 760.31(5) FS. Law Implemented 120.565, 760.29(4), 760.31(5) FS.

History—New 8-15-90, Formerly 22T-23.006.

60Y-9.007 | HOUSING FOR OLDER PERSONS REGISTRATION AND DOCUMENTATION

(1) Facilities or communities claiming an exemption under Section 760.29(4), F.S., shall register with the commission and submit the statutorily required documentation to the commission in the manner prescribed by the commission. Information on how to register is located on the commission's website, <http://fchr.state.fl.us>.

(2) The registration and documentation letter shall contain in bold letters on the face of the envelope the words "Registration for Housing for Older Persons," and provide the date of mailing.

(3) The registration and documentation shall be submitted biennially from the date of the original filing.

(4) The information in the commission's registry is a public record. The information shall also be included on the commission's main website, <http://fchr.state.fl.us>.

(5) Failure to comply with the requirements of Section 760.29(4)(e), F.S., shall not disqualify a facility or community that otherwise qualifies for the exemption provided in Section 760.29(4), F.S.

(6) The Commission may impose an administrative fine not to exceed \$500 on a facility or community that knowingly submits false information in the documentation required by this rule. Such fine shall be deposited in the commission's trust fund.

Rulemaking Authority 760.31(5) FS. Law Implemented 760.29(4)(e) FS. History—New 2-11-02, Amended 2-5-04, 2-4-16.

60Y-25.001 | PURPOSE

These rules clarify terms used with regard to handicap accessibility and exceptions from accessibility requirements based on terrain or site characteristics. These rules maintain the substantial equivalency between the relevant federal standards and the state requirements.

Specific Authority 120.543, 760.31(5) FS. Law Implemented 760.23, 760.31(5) FS. History—New 11-2-92.

60Y-25.002 | GENERAL PROHIBITION AGAINST DISCRIMINATION BECAUSE OF HANDICAP

The Commission adopts by reference 24 C.F.R. Section 100.202, F.S., as published in the Federal Register on Monday, January 23, 1989.

Specific Authority 120.543, 760.31(5) FS. Law Implemented 760.23, 760.31(5) FS. History—New 11-2-92.

60Y-25.003 | REASONABLE MODIFICATION OF EXISTING PREMISES

The Commission adopts by reference 24 C.F.R. Section 100.203, F.S., as published in the Federal Register on Monday, January 23, 1989.

Specific Authority 120.543, 760.31(5) FS. Law Implemented 760.23, 760.31(5) FS. History—New 11-2-92.

60Y-25.004 | REASONABLE ACCOMMODATION

The Commission adopts by reference 24 C.F.R. Section 100.204, F.S., as published in the Federal Register on Monday, January 23, 1989.

Specific Authority 120.543, 760.31(5) FS. Law Implemented 760.23, 760.31(5) FS. History—New 11-2-92.

60Y-25.005 | DESIGN AND CONSTRUCTION REQUIREMENTS

The Commission adopts by reference 24 C.F.R. Section 100.205, F.S., as published in the Federal Register on Monday, January 23, 1989.

Specific Authority 120.543, 760.31(5) FS. Law Implemented 760.23, 760.31(5) FS. History—New 11-2-92.

60Y-25.006 | DESIGN GUIDELINES FOR ACCESSIBLE/ADAPTABLE DWELLINGS

The Commission adopts by reference 24 C.F.R. Chapter I, Subchapter A, Appendix II, as published in the Federal Register on March 6, 1991, entitled "Fair Housing Accessibility Guidelines."

Specific Authority 120.543, 760.31(5) FS. Law Implemented 760.23, 760.31(5) FS. History—New 11-2-92.

60Y-25.007 | SITE IMPRACTICALITY; EXEPTIONS TO SITE IMPRACTICALITY

The Commission adopts by reference relevant portions of 24 C.F.R. Chapter I, Subchapter A, Appendix II. (See Section 5 Guidelines, Requirement 1), as published in the Federal Register on March 6, 1991, entitled "Fair Housing Accessibility Guidelines."

Specific Authority 120.543, 760.31(5) FS. Law Implemented 760.23, 760.31(5) FS. History–New 11-2-92.

APPENDIX

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