

## **TITLE 515 – COMMISSION FOR HUMAN RIGHTS**

### **CHAPTER 10 – OPERATION**

#### **SUBCHAPTER 00 – N/A**

#### **PART 3 – Fair Housing**

### **3.1 Authorization**

The following regulations of the Rhode Island Commission for Human Rights were adopted in accordance with the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35. They were originally filed on February 23, 1993. Amendments were filed on September 16, 1993, and June 19, 2014. The Regulations are promulgated in accordance with R.I. Gen. Laws §§ 28-5-13(4); 34-37-6(j); 40-9.1-4; and 42-87-5(a).

### **3.2 Processing of Charges under the Fair Housing Practices Act**

- A. General Procedures. Unless specifically provided otherwise in this Chapter, the following procedures shall apply to all charges filed under the Fair Housing Practices Act:
1. The procedures set forth in Part 2 of this Subchapter shall apply with respect to charges filed under the Fair Housing Practices Act, R.I. Gen. Laws Chapter 34-37, as applicable.
  2. Upon the filing of a charge, the Commission will serve notice upon the complainant acknowledging such filing and advising the complainant of the time limits and choice of forums provided in the Fair Housing Practices Act.
  3. The Commission shall, not later than ten (10) days after such filing, mail to the respondent a copy of the charge together with a notice advising such respondent of the procedural rights and obligations of such respondent under the Fair Housing Practices Act.
  4. Each respondent may file an answer to the charge not later than ten (10) days after receipt. General denials are not accepted.
  5. The Commission shall commence an investigation before the thirtieth (30th) day after the receipt of the charge and complete such investigation

within one hundred (100) days after the filing of the charge, unless impracticable to do so.

6. If the Commission is unable to complete the investigation within one hundred (100) days after the filing of the charge, the Commission shall notify the complainant and respondent in writing of the reasons for not doing so.
7. The Commission shall make final administrative disposition of a charge within one (1) year of the filing of the charge, unless impracticable to do so.
8. If the Commission is unable to make final administrative disposition of a charge within one (1) year of the filing of the charge, the Commission shall notify the complainant and respondent in writing of the reasons for not doing so.
9. If the Commission, after investigation, determines that probable cause exists, it shall issue and serve upon every party a complaint stating the charges.
10. The Commission's probable cause determination shall have the same meaning as reasonable cause as defined in the federal Fair Housing Act of 1968, 42 U.S.C. § 3601 *et seq.*, as amended.
11. In addition to the right to sue procedures set forth in §§ 2.7(A) and (B) of this Subchapter, when a complaint issues after a finding of probable cause, any party may elect to have the claims asserted in that complaint decided in a civil action in lieu of an administrative hearing. The election must be made in writing not later than twenty (20) days after the receipt of the complaint by the electing party. The party making such election shall give notice of doing so to the Commission, the attorney general, and to all other parties to whom the charge relates.
12. If an election is made as provided in § 3.2(A)(11) of this Part:
  - a. the complainant, the Commission or the attorney general may commence and maintain a civil action on behalf of the aggrieved person as provided in R.I. Gen. Laws § 28-5-28 within ninety (90) days after receipt of notice of an election. The Commission shall commence and maintain an action seeking appropriate relief for the aggrieved party and vindication of the public interest, if neither the attorney general nor the complainant has commenced a civil action on behalf of the aggrieved person. If the complainant commences a civil action on behalf of the aggrieved person, the Commission shall

intervene in the case on behalf of the public interest. If the attorney general commences a civil action on behalf of the aggrieved person, the Commission shall have the right to intervene on behalf of the public interest; and,

- b. any party may claim a trial by jury. Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action;
13. If none of the parties makes an election as provided above, a Commission attorney, acting as the Civil Prosecutor, shall either maintain the administrative action seeking appropriate relief for an aggrieved party and vindication of the public interest, or, if the complainant is represented by an attorney or proceeds *pro se*, participate in the administrative action on behalf of the public interest.

### **3.3 Exemptions Related to Familial Status**

- A. Criteria for Exemptions. A respondent may claim an exemption from the provisions of the Fair Housing Practices Act prohibiting discrimination on the basis of familial status by proving that:
- 1. the housing accommodation is provided under any state or federal program which is designed and operated to assist elderly persons and is designated as such by the Secretary of the Department of Housing and Urban Development under section 807(2)(A) of the federal Fair Housing Act of 1968, 42 U.S.C. § 3601 *et seq.*, as amended; or
  - 2. the housing accommodation is of four (4) units or less, the owner actually maintains and occupies one (1) of such living quarters as their residence and one (1) of those units is already occupied by a person sixty-two (62) years of age or older or infirm person for whom the presence of children would constitute a demonstrated hardship; or
  - 3. the housing accommodation is intended for and solely occupied by persons sixty-two (62) years of age or older; or,
  - 4. the housing accommodation is intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older per unit, provided that:
    - a. at least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and

- b. the owner or manager has published and adhered to policies and procedures which demonstrate an intent to provide housing for persons fifty-five (55) years of age or older; and,
  - c. the housing accommodation has significant facilities and services designed to meet the physical and social needs of older persons. If the provision of significant services and facilities is not practicable, it must be demonstrated that such housing provides important opportunities for older persons.
- B. Verification. In order for a housing facility to qualify as housing under §§ 3.3(A) (3) or (4) of this Part, the housing provider must be able to produce, in response to a charge filed under the Fair Housing Practices Act, verification of compliance with state law. To prove compliance, a facility shall develop procedures for routinely determining whether the occupant of each unit is age compliant.

### **3.4 Accessibility and Accommodations For Persons With Disabilities**

- A. Design and Construction. Any housing accommodation of four (4) units or more constructed for first occupancy after March 13, 1991 shall be designed and constructed in compliance with the requirements of the Fair Housing Practices Act.
- B. Reasonable Modifications. An owner cannot refuse to allow a person with disabilities to make, at their expense, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises.
  - 1. Reasonable modifications typically include, but are not limited to, installation of grab bars in a bathroom, widening a doorway to permit a wheelchair to pass and installation of lower sinks, toilets or environmental controls;
  - 2. An owner can, where reasonable, condition permission for the reasonable modification on the tenant agreeing to restore the interior of the premises to the condition that existed before the modification. Modifications which would not interfere with a future tenant's enjoyment of the premises and which do not have to be restored could include, but are not limited to, widening a doorway, studs installed to hold grab bars or the lowering of environmental controls;
  - 3. An owner can require, where reasonable, for the payment of a reasonable restoration deposit. This deposit shall be placed in an interest-bearing

escrow account and the interest shall accrue to the benefit of the tenant. Factors to be considered in the reasonableness of a restoration deposit can include, but are not limited to, the cost to restore the premises, the income of the tenant and the length of the tenancy.

- C. Other Accommodations. An owner may not refuse to make reasonable accommodations to rules, policies, practices or services, when those accommodations may be necessary to afford an occupant or prospective occupant with a disability equal opportunity to use and enjoy a dwelling and its facilities. This includes, but is not limited to, making reasonable accommodations to pet policies.
1. There must be an identifiable relationship, or nexus, between the requested accommodation and the person's disability.
  2. Housing providers are entitled to verify the existence of the disability, and the need for the accommodation—if either is not readily apparent.
  3. Housing providers are not required to provide any reasonable accommodation that would pose a direct threat to the health or safety of others.
  4. A housing provider is not required to make an accommodation for an assistance animal if the presence of such animal would:
    - a. result in substantial physical damage to the property of others unless the threat can be eliminated or significantly reduced by a reasonable accommodation;
    - b. pose an undue financial and administrative burden; or,
    - c. fundamentally alter the nature of the housing provider's operations.
  5. Not all animals necessary as a reasonable accommodation need to have specialized training.

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