

29 FAR 35 | 8/29/2003 | NOTICE OF PROPOSED RULES

DEPARTMENT DEPARTMENT OF MANAGEMENT SERVICES

AGENCY FLORIDA COMMISSION ON HUMAN RELATIONS

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MEETING DATE Wednesday, September 24, 2003

MEETING TIME 9:00:00

RULE NO 60Y-8.001

TITLE Petition for Relief from a Discriminatory
Housing Practice

**SPECIFIC
AUTHORITY** 120.53, 760.06(12), 760.31(5) FS.

**LAW
IMPLEMENTED** 120.53, 760.34, 760.35 FS.

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ORIGINATOR William James Tait, Jr., General Counsel

APPROVER Cecil Howard, Executive Director

PROPOSAL DATE 8/18/2003

PUBLISH DATE 8/1/2003

Purpose

The rule section provides for Petitions for Relief from a discriminatory housing practice.

Summary

Amendments have updated the section to reflect the adoption of the Uniform Rules of Procedure and to current commission practices.

Regulatory Costs

None. Any person who wishes to provide information regarding the statement of estimated regulatory cost, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

Notification

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

FULL TEXT OF THE PROPOSED RULE

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) ~~Failure of Conciliation~~. The Executive Director on behalf of the Commission may institute an action by filing ~~file~~ 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 760.20-760.37, F.S. within 30 days of Services of a Notice of Failure of Conciliation. 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) Answer.~~

~~(a) Each respondent shall file an answer with the Commission within 20 days of service of the petition.~~

~~(b) The answer shall include a specific admission, denial, or explanation of each allegation of the petition; or if the respondent is without knowledge thereof, it shall so state, in which case such statement shall operate as a denial. Admissions or denials may be made to all or part of a particular allegation.~~

~~(c) The answer shall include a specific, detailed statement of any affirmative defense. Failure to plead an affirmative defense shall constitute a waiver of that defense.~~

~~(d) If a respondent fails to file a timely answer, such failure shall be deemed to constitute an admission of the material facts alleged in the petition. Any allegation within the petition which is not denied in the answer shall be deemed admitted.~~

~~(e) The filing of a motion to dismiss shall not toll the time for filing an answer.~~

~~(5) Notice to Commissioners or Members of a Panel. The Clerk shall serve notice of the petition upon all Commissioners unless a panel has been designated by the Chairperson. If a Panel has been designated, the Clerk shall serve notice upon the members of that Panel.~~

~~(4)(6) 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 Hearing Officer.~~

~~(5)(7) Voluntary Dismissal. A Petition for Relief filed by a complainant may be dismissed by the complainant without order of the Administrative Law Judge hearing office, 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 ~~the Commission takes final action~~ 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. ~~complainant's~~ administrative remedies and constitutes final agency action.

Specific Authority 120.53, 760.31(5) FS. Law Implemented 120.53, 760.34, 760.35 FS. History-New 1-25-90, Formerly 22T-22.001, Amended 11-18-92, _____.