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**SOUTH CAROLINA HUMAN AFFAIRS COMMISSION**

CHAPTER 65

Statutory Authority: 1976 Code Sections 31-21-30 and 31-21-100

65-227. Issuance of Complaint.

**Synopsis:**

Regulation 65-227 governs the requirements for issuing a reasonable cause determination and an accompanying administrative pleading in anticipation of an administrative hearing before a panel of the Board of Commissioners.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 23, 2016.

**Instructions:**

Replace Regulation 65-227 as printed below.

**Text:**

65-227. Issuance of Reasonable Cause Determination.

 A. Reasonable cause determination.

 (1) If a conciliation agreement has not been executed by the complainant and the respondent, and approved by the Commissioner, within the time limits set forth in paragraph (3)(a) of this section, the Commission shall determine whether, based on the totality of the factual circumstances known at the time of the decision, reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur. The reasonable cause determination will be based solely on the facts concerning the alleged discriminatory housing practice, provided by complainant and respondent and otherwise, disclosed during the investigation.

 (a) In all cases

 (i) If the Commission determines that reasonable cause exists the Commission will immediately issue a reasonable cause determination on behalf of the aggrieved person, and shall notify the aggrieved person and the respondent of this determination by certified mail or personal service.

 (ii) If the Commission determines that no reasonable cause exists, the Commission shall: issue a short and plain written statement of the facts upon which the Commission has based the no reasonable cause determination; dismiss the complaint; notify the aggrieved person and the respondent of the dismissal (including the written statement of facts) by certified mail or personal service; and make public disclosure of the dismissal. Public disclosure of the dismissal may be by issuance of a press release except that the respondent may request that no release be made. Notwithstanding a respondent’s request that no press release be issued, the fact of the dismissal, including the names of the parties, shall be public information available on request.

 (2) The Commission may not issue a reasonable cause determination under paragraph (1) of this section regarding an alleged discriminatory housing practice, if an aggrieved person has commenced a civil action seeking relief with respect to the alleged discriminatory housing practice, and the trial in the action has commenced. If a complaint may not be issued because of the commencement of such a trial, the Commission will so notify the aggrieved person and the respondent by certified mail or personal service.

 (3)(a) The Commission shall make a reasonable cause determination within 100 days after filing of the original complaint (or where the Commission has reactivated a complaint, within 100 days after service of the notice of reactivation), unless it is impracticable to do so.

 (b) If the Commission is unable to make the determination within the 100 day period specified in paragraph (3)(a) of this section, the Commission will notify the aggrieved person and the respondent, by certified mail or personal service, of the reasons for the delay.

 B. Issuance of Administrative Pleading.

 (1) An administrative pleading:

 (a) Shall consist of a short and plain written statement of the facts upon which the Commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

 (b) Shall be based on the final investigative report; and

 (c) Need not be limited to facts or grounds that are alleged in the original complaint if the record of the investigation demonstrated that the respondent has been given notice and an opportunity to respond to the allegation.

 (2) Within three business days after the issuance of the reasonable cause determination the Commission shall:

 (a) Set a time and place for hearing;

 (b) File the administrative pleading along with the required notifications, with the Chairman; and

 (c) Serve the administrative pleading and notifications in accordance with the Act.

 C. Election of civil action or provision of administrative proceeding.

 (1) If an administrative pleading is issued under 65‑227.B., a complainant, a respondent, or an aggrieved person on whose behalf the complaint is filed may elect, in lieu of an administrative proceeding, to have the claims asserted in the complaint decided in a civil action.

 (2) The election must be made no later than twenty days after the receipt of service of the reasonable cause determination. The notice of the election must be filed with the Commission, the respondent, and the aggrieved persons on whose behalf the complaint was filed. The notification will be filed and served in accordance with the procedures established under Article 3.

 (3) If an election is not made under this section, the Commission will maintain an administrative proceeding based on the administrative pleading in accordance with the procedures under Article 3.

 (4) If an election is made under this section, the Commission shall cause to be commenced and maintained a civil action seeking relief as provided by the Fair Housing Law on behalf of the aggrieved person in the appropriate Court of Common Pleas.

**Fiscal Impact Statement:**

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-227.

**Statement of Rationale:**

Regulation 65-227 needs to consistently and clearly use different terms when referring to different documents in an investigation deemed to be a ‘reasonable cause’ case.