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**SOUTH CAROLINA HUMAN AFFAIRS COMMISSION**

CHAPTER 65

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

65-223. Investigation Procedures.

**Synopsis:**

Regulation 65-223 governs the procedures for administrative hearings before a panel of commissioners following a reasonable cause determination under the Fair Housing Law.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on August 25, 2017.

**Instructions:**

Replace Regulation 65-223 as printed below.

**Text:**

65-223. Investigation Procedures.

 A. Investigations.

 (1) Upon the filing of a complaint under 65‑220, the Commission will initiate an investigation.

 (2) The purposes of an investigation are:

 (a) To obtain information concerning the events or transactions that relate to the alleged discriminatory housing practice identified in the complaint.

 (b) To document policies or practices of the respondent involved in the alleged discriminatory housing practice raised in the complaint.

 (c) To develop factual data necessary for the Commission to make a determination whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, and to take other actions provided by the Fair Housing Law.

 B. Conduct of Investigation.

 (1) In conducting investigations under this Rule, the Commission will seek the voluntary cooperation of all persons to obtain access to premises, records, documents, individuals, and other possible sources of information; to examine, record, and copy necessary materials; and to take and record testimony or statements of persons reasonably necessary for the furtherance of the investigation.

 (2) The Commission and the respondent may conduct discovery in aid of the investigation by the same methods and to the same extent that parties may conduct discovery in an administrative proceeding except that the Commission shall have the power to issue subpoenas in support of the investigation or at the request of the respondent. Subpoenas must be approved by the Legal Counsel as to their legality before issuance.

 C. Cooperation of Federal, State or local agencies.

 The Commission, in processing Fair Housing Law complaints, may seek the cooperation and utilize the services of Federal, State or local agencies, including any agency having regulatory or supervisory authority over financial institutions.

 D. Completion of investigation.

 (1) At any time, the aggrieved person may seek to withdraw the complaint from the agency. The request must be in writing from the aggrieved party, or aggrieved party’s representative, stating the reasons for withdrawal. The request is subject to approval by the Commission. Such withdrawal shall be without prejudice to the rights of the aggrieved party. A withdrawn complaint may be re-filed, provided such filing occurs within one hundred eighty (180) days of the discriminatory act originally alleged.

 (2) If the aggrieved party fails to provide information necessary for the filing or processing of a complaint, fails or refuses to appear or to be available for scheduled interviews or conferences with Commission investigators, or otherwise refuses to cooperate with the Commission to the extent that the Commission is unable to resolve the complaint, then the Commission, after due written notice to the aggrieved party and fifteen (15) days in which to respond, may dismiss the complaint.

 (3) All other investigations will remain open until the reasonable cause determination is made or a conciliation agreement is executed and approved. Unless it is impracticable to do so, the Commission will complete the investigation of the alleged discriminatory housing practice within 100 days of the filing of the complaint (or where the Commission reactivates the complaint, within 100 days after service of the notice of reactivation). If the Commission is unable to complete the investigation within the 100 day period, the Commission will notify the aggrieved person and the respondent, by certified mail or personal service, of the reasons for the delay.

 E. Final investigative report.

 (1) At the end of each investigation under this Rule, the Commission will prepare a final investigative report. The investigative report will contain:

 (a) The names and dates of contacts with witnesses, except that the report will not disclose the names of witnesses who request anonymity. The Commission, however, may be required to disclose the names of such witnesses in the course of an administrative hearing or a civil action under the Fair Housing Law.

 (b) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent.

 (c) A summary description of other pertinent records.

 (d) A summary of witness statements; and

 (e) Answers to interrogatories.

 (2) A final investigative report may be amended at any time, if additional evidence is discovered.

 (3) Notwithstanding the prohibitions and requirements with respect to disclosure of information contained in 65‑225.F., the Commission will make information derived from an investigation, including the final investigative report, available to the aggrieved person and the respondent. Following the completion of investigation, the Commission shall notify the aggrieved person and the respondent that the final investigation report is completed and will be provided upon request.

**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 65-223.

**Statement of Rationale:**

The regulation should include provisions that allow for closure of an investigation when an aggrieved party wants to withdraw the matter, or when aggrieved party is offered full relief under the law and fails to accept it.