IC 22-9.5-6

Chapter 6. Administrative Enforcement

IC 22-9.5-6-1

Investigation of alleged discriminatory practices; complaints; requirements; time limitations; procedures

Sec. 1. (a) The commission shall investigate alleged discriminatory housing practices.

(b) A complaint concerning an alleged discriminatory housing practice must be:

(1) in writing;

(2) under oath; and

(3) in the form prescribed by the commission.

(c) An aggrieved person may, not later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, file a complaint with the commission alleging the discriminatory housing practice.

(d) Not later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, the commission may file the commission's own complaint.

(e) A complaint under this section may be amended at any time.

(f) When a complaint is filed under this section, the commission shall do the following:

(1) Give the aggrieved person notice that the complaint has been received.

(2) Advise the aggrieved person of the time limits and choice of forums under this article.

(3) Not later than twenty (20) days after the filing of the complaint or the identification of an additional respondent under section 4 of this chapter, serve on each respondent:

(A) a notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of a respondent under this article; and

(B) a copy of the original complaint.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-2

Answer; time limitation; requirements

Sec. 2. (a) Not later than ten (10) days after receipt of the notice and copy under section 1(f)(3) of this chapter, a respondent may file an answer to the complaint.

(b) An answer must be:

(1) in writing;

(2) under oath; and

(3) in the form prescribed by the commission.

(c) An answer may be amended at any time.

(d) An answer does not inhibit the investigation of a complaint.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-3

Complaints referred and subject matter jurisdiction deferred by federal government; investigation by commission; time limitations

Sec. 3. (a) If the federal government has referred a complaint to the commission or has deferred jurisdiction over the subject matter of the complaint to the commission, the commission shall promptly investigate the allegations set forth in the complaint.

(b) The commission shall investigate all complaints, and except as provided by subsection (c), shall complete an investigation not later than one hundred (100) days after the date the complaint is filed, or if the commission is unable to complete the investigation within the one hundred (100) day period, shall dispose of all administrative proceedings related to the investigation not later than one (1) year after the date the complaint is filed.

(c) If the commission is unable to complete an investigation within the time periods prescribed by subsection (b), the commission shall notify the complainant and the respondent in writing of the reasons for the delay.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-4

Respondents joined by commission; notice; information required

Sec. 4. (a) The commission may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation the commission determines that the person should be accused of a discriminatory housing practice.

(b) In addition to the information required in the notice under section 1(f)(3) of this chapter, the commission shall include in a notice to a respondent joined under this section an explanation of the basis for the determination that the person is properly joined as a respondent.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-5

Conciliation; provisions of agreement; disclosure; use of information as evidence; parties' access to information

Sec. 5. (a) The commission shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the commission, to the extent feasible, engage in conciliation with respect to the complaint.

(b) A conciliation agreement is an agreement between a respondent and the complainant and is subject to commission approval.

(c) A conciliation agreement may provide for binding arbitration or other methods of dispute resolution. Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.

(d) A conciliation agreement shall be made public unless the complainant and respondent agree otherwise and the commission determines that disclosure is not necessary to further the purposes of this article.

(e) Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned.

(f) After completion of the commission's investigation, the commission shall make available to the aggrieved person and the respondent, at any time, information derived from the investigation and the final investigation report relating to that investigation.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-6

Civil action filed by commission; injunction; effect on administrative proceedings

Sec. 6. (a) If the commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this article, the commission may file a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint in a circuit or superior court that is located in the county in which the alleged discriminatory housing practice occurred.

(b) A temporary restraining order or other order granting preliminary or temporary relief under this section is governed by the Indiana Rules of Trial Procedure.

(c) The filing of a civil action under this section does not affect the initiation or continuation of administrative proceedings under section 14 of this chapter.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-7

Final investigative report; contents; amendments

Sec. 7. (a) The commission shall prepare a final investigative report showing the following:

(1) The names and dates of contacts with witnesses.

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

(3) A summary description of other pertinent records.

(4) A summary of witness statements.

(5) Answers to interrogatories.

(b) A final report under this section may be amended if additional evidence is discovered.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-8

Reasonable cause; determination; time limitation; delay notification; issuance of finding

Sec. 8. (a) The commission shall determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur.

(b) The commission shall make the determination under subsection (a) not later than one hundred (100) days after the date a

complaint is filed unless:

(1) it is impracticable to make the determination; or

(2) the commission has approved a conciliation agreement relating to the complaint.

(c) If it is impracticable to make the determination within the time period provided by subsection (b), the commission shall notify the complainant and respondent in writing of the reasons for the delay.

(d) If the commission determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall immediately issue a finding of reasonable cause on behalf of the aggrieved person.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-9

Finding of reasonable cause; requirements; copies of finding sent to parties; time limitation

Sec. 9. (a) A finding of reasonable cause issued under section 8 of this chapter:

(1) must consist of a short and plain statement of the facts on which the commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(2) must be based on the final investigative report; and

(3) need not be limited to the facts or grounds alleged in the complaint.

(b) Not later than twenty (20) days after the commission issues a finding of reasonable cause, the commission shall send a copy of the finding of reasonable cause with information concerning the election under section 12 of this chapter to the following:

(1) Each respondent, together with a notice of the opportunity for a hearing provided by section 14 of this chapter.

(2) Each aggrieved person on whose behalf the complaint was filed.

As added by P.L.66-1990, SEC.2. Amended by P.L.1-1991, SEC.153.

IC 22-9.5-6-10

Dismissal of complaint; public disclosure

Sec. 10. (a) If the commission determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall promptly dismiss the complaint.

(b) The commission shall make public disclosure of each dismissal under this section.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-11

Civil action commenced by aggrieved party; issuance of finding of reasonable cause restricted

Sec. 11. The commission may not issue a finding of reasonable cause under this chapter regarding an alleged discriminatory housing

practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing practice.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-12
Election to have claims decided in civil action; time limitation; notice

Sec. 12. (a) A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in a finding of reasonable cause decided in a civil action as provided by section 13 of this chapter.

(b) The election must be made not later than twenty (20) days after the date of receipt by the electing person of service under section (9)(b) of this chapter or, in the case of the commission, not later than twenty (20) days after the date the finding of reasonable cause was issued.

(c) The person making the election shall give notice to the commission and to all other complainants and respondents to whom the finding of reasonable cause relates.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-13
Timely election; filing of civil action by commission; time limitation; intervention in action by aggrieved person; relief

Sec. 13. (a) If a timely election is made under section 13 of this chapter, the commission shall, not later than thirty (30) days after the election is made, file a civil action on behalf of the aggrieved person seeking relief under this section in a circuit or superior court that is located in the county in which the alleged discriminatory housing practice occurred.

(b) An aggrieved person may intervene in the action.

(c) If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief that a court may grant in a civil action under IC 22-9.5-7.

(d) If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court may not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the court.
As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-14
Hearings; procedure; discontinuance

Sec. 14. (a) If a timely election is not made under section 12 of this chapter, the commission shall provide for a hearing on the finding of reasonable cause.

(b) Except as provided by subsection (c), IC 4-21.5 governs a hearing under this section.

(c) A hearing under this section may not continue regarding any alleged discriminatory housing practice after the beginning of the

trial of a civil action commenced by the aggrieved person under federal or state law seeking relief with respect to that discriminatory housing practice.

(d) IC 22-9.5-11 governs an appeal of a final order issued under this article.

As added by P.L.66-1990, SEC.2. Amended by P.L.14-1994, SEC.8.

IC 22-9.5-6-15

Determination at hearing that respondent has or is about to engage in discriminatory practice; relief; civil penalties; previous violation

Sec. 15. (a) If the commission determines at a hearing under section 14 of this chapter that a respondent has engaged in or is about to engage in a discriminatory housing practice, the commission may order the appropriate relief, including actual damages, reasonable attorney's fees, court costs, and other injunctive or equitable relief.

(b) To vindicate the public interest, the commission may assess a civil penalty against the respondent in an amount that does not exceed the following:

(1) Ten thousand dollars ($10,000) if the respondent has not been adjudged by order of the commission or a court to have committed a prior discriminatory housing practice.

(2) Except as provided by subsection (c), twenty-five thousand dollars ($25,000) if the respondent has been adjudged by order of the commission or a court to have committed one (1) other discriminatory housing practice during the five (5) year period ending on the date of the filing of the finding of reasonable cause.

(3) Except as provided by subsection (c), fifty thousand dollars ($50,000) if the respondent has been adjudged by order of the commission or a court to have committed two (2) or more discriminatory housing practices during the seven (7) year period ending on the date of the filing of the finding of reasonable cause.

(c) If the acts constituting the discriminatory housing practice that is the object of the finding of reasonable cause are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties in subsection (b)(2) and (b)(3) may be imposed without regard to the period of time within which any other discriminatory housing practice occurred.

(d) The commission may sue to recover a civil penalty due under this section.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-16

Effect of order on prior transactions

Sec. 16. A commission order under section 15 of this chapter does not affect a contract, a sale, an encumbrance, or a lease that:

(1) was consummated before the commission issued the order; and

(2) involved a bona fide purchaser, an encumbrancer, or a tenant who did not have actual notice of the finding of reasonable cause filed under this article.

As added by P.L.66-1990, SEC.2. Amended by P.L.1-1991, SEC.154.

IC 22-9.5-6-17

Discriminatory practice in course of business subject to licensing or regulation by governmental agency; copies of findings and order to agency; recommendation of discipline

Sec. 17. If the commission issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the commission shall, not later than thirty (30) days after the date of the issuance of the order:

(1) send copies of the findings and the order to the governmental agency; and

(2) recommend to the governmental agency appropriate disciplinary action.

As added by P.L.66-1990, SEC.2.

IC 22-9.5-6-18

Previous violation by respondent in preceding five years; copy of orders to attorney general

Sec. 18. If the commission issues an order against a respondent against whom another order was issued within the preceding five (5) years under section 15 of this chapter, the commission shall send a copy of each order issued under that section to the attorney general.

As added by P.L.66-1990, SEC.2.