

TITLE 910 IAC 2 - Indiana Civil Rights Commission
LSA Document #XX-XXX

I. Description of Rule

The Indiana Civil Rights Commission (“ICRC”) enforces the Indiana Fair Housing Act (“IFHA”) codified at IC 22-9.5 and has rule making authority under IC 22-9.5-4-2. These rules provide specific guidance for cases involving housing discrimination claims. The rules also ensure that ICRC remains compliant with its workshare agreements with its federal funding partner, the U.S. Department of Housing and Urban Development (“HUD”). Indiana’s Fair Housing laws are required to be substantially equivalent to Federal fair housing laws for ICRC to maintain its eligibility for federal funding through HUD as a Fair Housing Assistance Program (“FHAP”)

Based on legislative changes under HEA 1003 (2024), and coupled with the directives contained in Executive Order 25-17, ICRC has identified several changes for these rules in Article 2, as well as in Articles 1 and 3, that combined will ultimately reduce the regulatory footprint by over 45%. ICRC is therefore seeking to amend the current version of the rules to comply with those directives while also ensuring that it remains compliant with its federal funding partner for enforcing Fair Housing laws.

a. History and Background of the Rule

The ICRC enforces the IFHA codified at IC 22-9.5 and has rulemaking authority under IC 22-9.5-4-2. Pursuant to that authority, ICRC enacted 910 IAC 2 to establish practices, procedures, and guidance before the commission for addressing complaints of discrimination. These rules provide the necessary guidance for fair housing guidelines and for navigating the discrimination complaint process through the IFHA as described in IC 22-9.5-4-3.

The rules were initially adopted prior to any requirement for a regulatory analysis. The rules provide parties with guidance on the fair housing act and the complaint process and ensure that ICRC guidelines remain substantially equivalent with the U.S. Department of Housing and Urban Development (“HUD”) guidelines for ICRC to maintain its eligibility to operate as a Fair Housing Assistance Program (FHAP) through its federally funded workshare agreement.

b. Scope of the Rule

910 IAC 2 establishes practices and procedures before ICRC for defining and addressing complaints of discrimination in fair housing..

c. Statement of Need

These rules provide guidance for the parties and assist with regulatory compliance and implementation. Based on legislative changes under HEA 1003 (2024), along with directives in Executive Order 25-17, ICRC has identified changes that will ultimately reduce the regulatory footprint significantly. ICRC is therefore seeking to amend the current version of the rules to comply with those directives while also ensuring that it remains substantially equivalent with its federal funding partner, HUD.

d. Statutory Authority

ICRC has rulemaking authority to administer the IFHA under IC 22-9.5-4-2.

e. Fees, Fines, and Civil Penalties

The rulemaking does not add or increase any fees, fines or civil penalties and therefore, does not need to follow additional rulemaking requirements found at IC 4-22-2-19.6.

II. Fiscal Impact Analysis

a. Anticipated Effective Date of the Rule

The pre-amended rules are currently in effect. The proposed amendments are anticipated to take effect no later than January 1, 2027.

b. Estimated Fiscal Impact on State and Local Government

Because the amendments are largely non-substantive and intended only to reduce the regulatory footprint by reducing verbiage, ICRC does not anticipate a meaningful fiscal impact on State and local government finances. However, the rules themselves are needed to maintain compliance with ICRC's HUD workshare agreement, which provides significant funding to help cover ICRC's annual expenses.

As part of the amendment and reduction process, ICRC has proposed to repeal Rule 8, which provides guidelines on Fair Housing Advertising. As part of its review process, ICRC has concluded that this particular rule is no longer necessary. Since its inception, the rule has rarely been used. In those cases where it was potentially applicable, the rule has proved inefficient and unworkable. ICRC's staff spent multiple hours reviewing advertisements that failed to identify an appreciable number of cases for further investigation, and none that resulted in a "cause" finding for administrative enforcement or litigation.

c. Sources of Expenditures or Revenues Affected by the Rule

The rulemaking will not impact expenditures or revenues of State agencies or local governments for the years the rules will be in force for the reasons given above.

III. Impacted Parties

The rules under Article 2 impact individuals and businesses engaged in housing-related activities. These include parties such as realtors (over 18,000 licensed realtors in Indiana¹), landlords and property owners/managers², homeowners associations (HOAs)³, banks who provide lending for housing⁴, and hotels who provide long-term housing. There are over 143 colleges and universities, in Indiana, some also subject to the IFHA. However, amending these rules will not create any new or increase any burden on

¹ According to Indiana Association of Realtors.

² The Indiana Apartment Association, a statewide trade association for professionally managed multifamily housing indicates representation of over 285,000 homes.

³ According to ipropertymanagement.com, there are 5,150 HOAs in Indiana.

⁴ According to bankbranchlocator.com, there are 132 local and national banks in Indiana.

those parties. Further, these rules do not create any additional regulatory burdens not contained in the IFHA but merely provide the guidance and procedures for affecting those laws.

IV. Changes in Proposed Rule

The current rules provide guidance for parties for cases that arise under Fair Housing laws, and they help ensure compliance with ICRC's HUD workshare agreement. Rule 8 involving advertising would be repealed. The remainder of the proposed amendments to 910 IAC 2 are non-substantive in nature and designed to reduce the regulatory footprint of the rules based on the legislative changes under HEA 1003 (2024) and the directives contained in Executive Order 25-17. Those changes utilize reference to, and incorporation of the federal standards listed in the Code of Federal Regulations ("CFR").

The proposed changes to 910 IAC 2 are as follows:

- 910 IAC 2-1-1 Scope. Amend to clarify language addressing the Commission.
- 910 IAC 2-1-2 Definitions. Amend to clarify language addressing the Commission and add definition for protected class.
- 910 IAC 2-2-1 Real estate practices prohibited. Amend to reduce unnecessary language by incorporating by reference substantially equivalent definitions in CFR.
- 910 IAC 2-2-2 through 2-2-14. Amend to repeal/delete all sections in their entirety as they are no longer necessary given the incorporation by reference in 910 IAC 2-2-1 of the CFR provisions.
- Rule 3. Amend Title for clarity by deleting "Handicap" and adding "Because of Handicap" after "Discrimination."
- 910 IAC 2-3-1 Purpose. Amend to repeal/delete this section in its entirety as unnecessary and to reduce language.
- 910 IAC 2-3-2 Definitions and References. Amend to reduce language by incorporating by reference CFR provisions.
- 910 IAC 2-3-3 General Prohibitions. Amend to reduce language by incorporating by reference CFR provisions.
- 910 IAC 2-3-4 Reasonable modifications of existing premises. Amend to reduce language by incorporating by reference CFR provisions.
- 910 IAC 2-3-5 Reasonable accommodations. Amend to reduce language by incorporating by reference CFR provisions.
- 910 IAC 2-3-6 Design and construction requirements. Amend to reduce language by incorporating by reference CFR provisions.
- 910 IAC 2-4-1 Incorporation of Federal Rules. Amend to remove unneeded reference to scope and replace with incorporation by reference CFR provisions for the purpose of reducing language.
- 910 IAC 2-4-2 through 2-4-4 and 2-4-6 through 2-4-10. Amend to repeal/delete all sections in their entirety as they are no longer necessary given the incorporation by reference in 910 IAC 2-4-1 of the CFR provisions.
- 910 IAC 2-5-1 Interference; Coercion; Intimidation. Amend to reduce language by incorporating by reference CFR provisions.
- 910 IAC 2-5.1-1 Prohibitions. Adds provision to incorporate by reference CFR provisions .
- 910 IAC 2-5.2-1 Quid Pro Quo and Hostile Environment Harassment. Adds provision to incorporate by reference CFR provisions.
- 910 IAC 2-6-1 Purpose; applicability. Amend to clarify language regarding commission.

- 910 IAC 2-6-2 Complaints. Amend to clarify language regarding commission, update address information, add provisions for filing by email and online to modernize practice, and delete/remove unnecessary language.
- 910 IAC 2-6-3 Referral of complaints to federal and local agencies. Amend to clarify language regarding commission, add provision for email notification, and delete/remove unnecessary language.
- 910 IAC 2-6-4 Investigation procedures. Amend to clarify language regarding commission and process.
- 910 IAC 2-6-5 Conciliation. Amend to clarify language regarding commission and process.
- 910 IAC 2-6-6 Issuance of Charge. Amend to clarify language regarding commission and process, add provision for email, and delete/remove unnecessary language, including language specifying 100-day requirement for investigation.
- 910 IAC 2-6-7 Judicial Action. Amend to repeal/delete section in its entirety.
- 910 IAC 2-6-8 Other Action. Amend to repeal/delete section in its entirety.
- 910 IAC 2-7-1 General information. Amend to clarify language regarding commission and administrative law judge, add provision for email, and remove unnecessary language.
- 910 IAC 2-7-2 Administrative law judge. Amend to clarify language regarding commission and administrative law judge.
- 910 IAC 2-7-3. Parties. Amend to clarify language and process for intervenors.
- 910 IAC 2-7-4. Pleadings and motions. Amend to clarify language and process including election process, add provision for email, and remove unnecessary language.
- 910 IAC 2-7-5 Discovery. Amend to simplify wording of section and remove unnecessary language.
- 910 IAC 2-7-6 Subpoenas. Amend to clarify language regarding commission, and reference to administrative law judge, and remove unnecessary language.
- 910 IAC 2-7-7 Prehearing procedures. Amend to clarify language and add reference to “mediator” consistent with practice for settlement procedures.
- 910 IAC 2-7-8. Hearing procedures. Amend to clarify language, extend timeframe requirement to commence hearing, and remove unnecessary language.
- 910 IAC 2-7-9 Dismissals and decisions. Amend to clarify and update language and process to conform to current law regarding final orders and remove unnecessary language.
- 910 IAC 2-7-10 Judicial review and enforcement of final decision. Amend to clarify language regarding commission, update statutory references for process, and remove unnecessary language.
- 910 IAC 2-8 Fair Housing Advertising. Amend to repeal/delete all sections of rule in their entirety as provisions are no longer utilized.
- 910 IAC 2-9-1 Fair housing poster. Amend to add language specifying that blockbusting is illegal, provide for filing complaints via ICRC’s online portal, and update ICRC’s mailing address.

V. Benefit Analysis

a. Estimate of Primary and Direct Benefits

Because the proposed amendments to the rules are largely non-substantive, the benefits underlying the existing rules are maintained. Those benefits are numerous but difficult to monetize. The primary, direct

benefit from these rules is the implementation of the State's public policy of providing all citizens equal opportunity and access in housing. This protects citizens and provides a level playing field for all who wish to engage in this area. This ensures citizens can obtain housing without being discriminated against based on a protected characteristic. The value of this benefit cannot be easily monetized or quantified as it has both economic and non-economic considerations; however, there is no doubt the benefit from equal access and opportunity is significant.

b. Estimate of Secondary and Indirect Benefits

These rules also provide the processes that serve the state's public policy of protecting regulated entities from unfounded charges of discrimination. When regulated entities have complaints filed against them, these rules provide the process ICRC's uses to review the cases and determine if a discriminatory act occurred. This includes initial jurisdictional determinations, which often result in the regulated entity not having a complaint against them filed; this saves the regulated entity the time and resources it would have needed to otherwise defend against and respond to the complaint.

All parties benefit from these rules as they provide the necessary guidance and procedures for parties to navigate the discrimination complaint process under the Fair Housing laws. This benefits members of the public by informing them of how such cases are processed. The regulated community also benefits from the rules so they can understand how to maintain compliance with fair housing laws; many of these laws also have federal counterparts these regulated entities are required to follow, so there is often no additional action or training needed for compliance.

c. Cost Savings to Regulated Entities

These rules also provide the process to follow, along with applicable deadlines, if the need arises for a regulated entity to respond to a complaint filed against them. For discrimination cases under the IFHA, parties filing cases with ICRC will benefit from quicker resolution times than if they were filed with the applicable federal agency (HUD). This can result in lower costs associated with defending these actions for regulated entities.

VI. Cost Analysis

a. Estimate of Compliance Costs for Regulated Entities

Because the rules are currently in place, there is no additional cost associated with the amendments. The proposed amendments do not require parties to engage in any new behavior or procedures.

b. Estimate of Administrative Expenses Imposed by the Rules

No additional administrative expenses will occur due to this rulemaking. Further, by reducing the verbiage and replacing it with references to the federal standards found in the CFRs, ICRC can ensure that its rules remain substantially equivalent to federal housing laws such that ICRC remains in compliance with its HUD workshare agreement. As such, the proposed amendments will not add any new costs to ICRC or other agencies.

c. The fees, fines, and civil penalties analysis required by IC 4-22-2-19.6

These proposed amendments do not add any new fees, fines, or civil penalties.

- d. **If the implementation costs of the proposed rule are expected to exceed the threshold set in IC 4-22-2-22.7(c)(6).**

The implementation costs for these rules do not exceed the threshold set in IC 4-22-2-22.7(c)(6).

VII. Sources of Information

a. Independent Verifications or Studies

As indicated in footnotes above, ICRC obtained information from various sources to identify potential impacted parties to help with the cost-benefit analysis.

b. Sources Relied Upon in Determining and Calculating Costs and Benefits

ICRC reviewed internal reports and metrics. Because the proposed amendments do not result in any new costs, other sources were not consulted.

VIII. Regulatory Analysis

These rules provide guidance and procedures for parties to navigate the discrimination complaint process under the Fair Housing Act. It is public policy of the State to provide all citizens equal opportunity and access in the housing. The benefits derived from equal opportunity and access for all citizens outweigh the minimal costs associated with amending the existing rules to reduce the regulatory footprint.

IX. Contact Information of Staff to Answer Substantive Questions

Scott A. Kreider
ICRC Deputy Director and General Counsel
E-mail: sckreider@icrc.in.gov
Phone: 317.467.3427

Additional Information for OMB and SBA Review

The following information is required for OMB and State Budget Agency (SBA) review but will not be published along with the regulatory analysis.

X. Redline Draft of Proposed Rules

The Proposed Rule is attached separately.