WEST VIRGINIA CODE: §16B-18-11

§16B-18-11. Administrative enforcement; preliminary matters; complaints and answers; service; conciliation; injunctions; reasonable cause determinations; issuance of charge.

(a) (1) (A) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the commission alleging a discriminatory housing practice. The commission, on the commission's own initiative, may also file such a complaint. Such complaint shall be in writing and shall contain such information and be in such form as the commission requires. The commission may also investigate housing practices to determine whether a complaint should be brought under this section.

(B) Upon the filing of such complaint: (i) The commission shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this article; (ii) the commission shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2) of this subsection, serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this article, together with a copy of the original complaint; (iii) each respondent may file, not later than ten days after receipt of notice from the commission, an answer to such complaint; and (iv) unless it is impracticable to do so, the commission shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint.

(C) If the commission is unable to complete the investigation within 100 days after the filing of the complaint, the commission shall notify the complainant and respondent in writing of the reasons for not doing so.

(D) Complaints and answers shall be under oath or affirmation and may be reasonably and fairly amended at any time.

(2) (A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1) of this subsection, to such person, from the commission.

(B) Such notice, in addition to meeting the requirements of paragraph (1) of this subsection, shall explain the basis for the commission's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) (1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the commission, the commission shall, to the extent

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feasible, engage in conciliation with respect to such complaint.

(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the commission.

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

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

(5) (A) At the end of each investigation under this section, the commission shall prepare a final investigative report containing: (i) The names and dates of contacts with witnesses; (ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent; (iii) a summary description of other pertinent records; (iv) a summary of witness statements; and (v) answers to interrogatories.

(B) A final report under this paragraph may be amended if additional evidence is later discovered.

(c) Whenever the commission has reasonable cause to believe that a respondent has breached a conciliation agreement, the commission shall refer the matter to the Attorney General with a recommendation that a civil action be filed under §16B-18-15 of this code for the enforcement of such agreement.

(d) Nothing said or done in the course of conciliation under this article may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned, except the commission shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the commission's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(e) (1) 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 authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary injunction or other order granting preliminary or temporary relief shall be issued in accordance with the West Virginia rules of civil procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and §16B-18-13 of this code.

(2) Whenever the commission has reason to believe that a basis may exist for the

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commencement of proceedings against any respondent under subsections (a) and (b), §16B-18-15 of this code or for proceedings by any governmental licensing or supervisory authorities, the commission shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

(f) (1) The commission shall within 100 days after the filing of the complaint determine, based on the facts, whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the commission has approved a conciliation agreement with respect to the complaint. If the commission is unable to make the determination within 100 days after the filing of the complaint, the commission shall notify the complainant and respondent in writing of the reasons for not doing so.

(2) (A) 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, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section thirteen of this article.

(B) Such charge: (i) Shall consist of a short and plain 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; (ii) shall be based on the final investigative report; and (iii) need not be limited to the facts or grounds alleged in the complaint filed under subsection (a) of this section.

(C) If the commission determines that the matter involves the legality of any state or local zoning or other land use law or ordinance, the commission shall immediately refer the matter to the Attorney General for appropriate action under section fifteen of this article, instead of issuing such charge.

(3) 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. The commission shall make public disclosure of each such dismissal.

(4) The commission may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an act of Congress or a state law seeking relief with respect to that discriminatory housing practice.

(g) After the commission issues a charge under this section, the commission shall cause a copy thereof, together with information as to how to make an election under subsection (a), §16B-18-13 of this code and the effect of such an election, to be served: (1) On each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and (2) on each aggrieved person on whose behalf the complaint was filed.

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