

# **RHODE ISLAND COMMISSION FOR HUMAN RIGHTS**

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## **FREQUENTLY ASKED QUESTIONS ABOUT HOUSING DISCRIMINATION AND THE COMMISSION**

### **WHAT IS THE RI COMMISSION FOR HUMAN RIGHTS?**

The Commission was created in 1949 by an act of the Rhode Island General Assembly. The Commission is the state agency which enforces the state's anti-discrimination laws in the areas of housing, employment, public accommodations, credit and delivery of services. The Commission is not an advocacy agency.

Many of the housing cases filed with the Commission are automatically co-filed with the U. S. Department of Housing and Urban Development (HUD). HUD is responsible for enforcing the federal fair housing laws. The Commission does not charge for the services it provides.

### **WHAT ARE THE AREAS OF HOUSING LAW THE COMMISSION ENFORCES?**

Chapter 34-37	The Fair Housing Practices Act;
Chapter 42-87	The Civil Rights of People with Disabilities Act;
Section 34-37-4.3	The Law Regarding Credit Discrimination;
Sections 23-6.3-11 & 23-6.3-12	The Law Regarding HIV/AIDS Discrimination;

### **WHAT IS THE FEDERAL FAIR HOUSING ACT?**

The Federal Fair Housing Act was first passed in 1968. This law makes it illegal to discriminate against a rental applicant, tenant or home seeker due to their protected status. HUD has played a lead role in administering the Fair Housing Act; the 1988 amendments have greatly increased HUD's enforcement role. Changes were made to enhance law enforcement, including amendments to criminal penalties in section 901 of the Civil Rights Act of 1968 for violating the Fair Housing Act.

## **WHAT CATEGORIES ARE PROTECTED UNDER THE LAW?**

Race	Marital Status *
Color	Sexual Orientation *
National Origin	Gender Identity/Expression *
Religion	Age (18 +) *
Disability (mental and physical)	Status as Victim of Domestic Violence *
Familial or Minor Children Status	Housing Status *
Sex (includes pregnancy and sexual harassment)	Military Status *
	Lawful Source of Income *

Note: Categories with no asterisk (“\*\*”) are protected under both state and federal laws. Categories with an asterisk (“\*\*”) are protected under state law only.

**“Housing Status”** means the status of having or not having a fixed or permanent place of residence.

**“Military Status”** means status as a service member in the Armed Forces, or as a veteran with an honorable discharge or an honorable or general administrative discharge.

**“Lawful Source of Income”** means and includes any income, benefit or subsidy derived from: child support; alimony; Social Security; Supplemental Security Income; any other federal, state or local public assistance program, including, but not limited to: medical or veterans assistance; any federal, state or local rental assistance or housing subsidy program, including Section 8 Housing Choice Vouchers as authorized by 42 U.S.C. § 1437; and any requirement associated with such public assistance, rental assistance or housing subsidy program.

## **WHAT IS THE CIVIL RIGHTS OF PEOPLE WITH DISABILITIES LAW?**

This law makes it illegal for any person or entity regulated by the state, receiving financial assistance from the state or doing business in the state to discriminate against a qualified disabled person (either physical or mental disabilities) in employment, housing or any program, activity or service.

## **WHAT IS THE CREDIT DISCRIMINATION LAW?**

This law makes it illegal to deny credit or present different credit terms because of a person’s protected status.

## **WHAT IS THE LAW REGARDING HIV/AIDS DISCRIMINATION?**

This law makes it illegal for any person, agency, organization or legal entity to discriminate against an individual on the basis of a positive HIV test result, or perception of a positive test, in housing, education, employment, the granting of credit, public accommodations or delivery of services. The law also prohibits an HIV test from being required as a condition of employment.

## **WHAT IS A DWELLING UNDER THE LAW?**

A dwelling is any building or structure that is occupied or intended for occupancy as a residence by one or more families or vacant land that was designated to be developed for occupancy as a residence. Exceptions may apply in limited circumstances.

### **WHAT IS ILLEGAL UNDER THE LAW?**

It is illegal to refuse to sell or rent a dwelling to a person who has made a bona fide offer, because of their race, color, ancestral origin, religion, sex, disability, familial or minor children status, marital status, sexual orientation, gender identity/expression, age, status as a victim of domestic violence, housing status, or military status, or to discriminate against any person in the sale or rental of a dwelling because of his/her protected category.

### **WHAT ARE TYPES OF DISCRIMINATORY HOUSING PRACTICES?**

It is discriminatory to refuse to accept a bona fide offer of purchase; to refuse to rent or to negotiate for sale or rental; to impose different prices or charges for sale or rental; to use different qualification standards or procedures; to discriminate in the terms or conditions of housing, in the provision of services or facilities; to engage in conduct that makes dwellings unavailable or deny dwellings; to represent that a dwelling is not available when it is; to deny or fail to provide maintenance or repairs.

### **WHAT ARE TYPES OF DISABILITY DISCRIMINATION IN HOUSING?**

It is discriminatory to fail to make a reasonable accommodation in rules, policies or practices which may be necessary for a person with a disability to benefit from housing; to fail to permit a person with a disability to make reasonable modifications to existing premises, at his or her own expense, in order to be able to use it. If the premises are federally subsidized, the person with a disability need not pay for the reasonable modification.

### **WHAT CAN BE ASKED ABOUT THE NATURE OR SEVERITY OF A DISABILITY?**

It is illegal to inquire about the nature or severity of a disability except: to determine if a person is eligible for a priority, to determine if a person is qualified for a dwelling that is only available to people with disabilities, to make the usual non-discriminatory inquiries about qualifications, to ask if someone is a current illegal drug user or if the person has been convicted of the illegal manufacture or distribution of a controlled substance.

### **WHAT ARE TYPES OF HARASSMENT DISCRIMINATION IN HOUSING?**

The most common types of harassment are sexual and racial harassment. Both can occur by physical conduct or through words by property employees or other residents. They can occur when there's a trade-off proposed, or where the harassment is so pervasive and severe that it becomes a term or condition of housing. If one tenant is harassed by another tenant, the landlord must know of the harassment, or should have known of the harassment, and taken no action in order to be liable.

### **WHAT IS BLOCKBUSTING?**

Blockbusting is a practice used to persuade homeowners of a specific race or color to sell quickly and at a loss by appealing to the fear that minority groups will move into the neighborhood, causing property values to decline. The property is then sold for a profit.

### **WHAT TYPES OF HOUSING ADS OR STATEMENTS ARE DISCRIMINATORY?**

It is illegal to make, print, publish or cause to be made, printed or published, a notice, statement or advertisement about the sale or rental of a dwelling that indicates a preference, limitation or discrimination based on a protected class status. This provision applies to written or oral statements.

### **WHAT IS DISCRIMINATORY STEERING?**

Steering is the restriction of a person's choices in housing by words or conduct. It includes discouraging a person from looking at, buying, or renting housing because of their protected status or because of the race, national origin, etc., of people in a community or neighborhood. It is also described as directing a person to or away from a particular area or neighborhood based on that person's race or national origin or based on the racial or ethnic composition of the neighborhood.

### **WHAT IS THE TIME LIMIT IN WHICH TO FILE A HOUSING CHARGE?**

Persons who feel they have been discriminated against have one year from the date of alleged harm to file their charge. The Commission encourages people to contact the Commission (telephone, walk-in, letter, etc.) as soon as they believe they are victims of discrimination.

### **WHAT ARE SOME OF THE JURISDICTIONAL REQUIREMENTS TO FILE A CHARGE?**

To meet jurisdiction for acceptance of a charge the individual(s) filing a charge must identify that they are a member of a protected category, that the date the alleged harm took place was within one year of the filing, that the alleged harm was within the State of Rhode Island and that he/she was treated differently than someone who is not in their protected category.

### **WHAT HAPPENS AFTER A CHARGE IS FILED?**

Once the Commission accepts a charge, the case is assigned to a staff investigator and an impartial investigation takes place. The investigator gathers evidence to determine whether or not a violation of the law(s) has been committed. After the investigation is completed, a Commissioner makes a preliminary ruling based on the evidence presented. If the Commissioner rules No Probable Cause, the case will be dismissed. If the Commissioner rules Probable Cause, then the case will go into conciliation. If conciliation fails, the case will go to a public hearing. Under certain circumstances, the case may be brought to state Superior Court for a trial there.

### **HOW LONG DOES THE COMMISSION PROCESS TAKE?**

Each case takes a different amount of time to investigate, based on the nature and complexity of the issues, so it is impossible to estimate how long the process will take. The cooperation of all parties involved is essential. The Commission does have subpoena powers and can compel the production of documents and witnesses to testify.

**WHAT CAN THE COMMISSION DO IF DISCRIMINATION IS FOUND?**

If, after a public hearing, the Commission issues a decision finding that discrimination occurred, the Commission has the authority to award damages to victims of discrimination. The awards vary based on the discrimination found in each particular case. The Commission can award compensation for pain and suffering, the next available apartment, reasonable attorney's fees and civil penalties (paid to State Treasury). The Commission routinely orders that those found to have violated the law cease and desist all discriminatory practices and may order training on fair housing laws.

**CAN A CASE GO TO COURT?**

There is a process for a party to elect to have the case heard in Superior Court. The Commission has "right to sue" provisions in the discrimination laws. In most cases, individuals filing charges can seek a right to sue in state court if their case has been filed with the Commission for at least 120 days but not more than two years. In addition, in cases in which the Commission has found Probable Cause, either party may elect to terminate Commission proceedings and have the matter heard in Superior Court, provided the election is made in writing within 20 days of receipt of notice of a Probable Cause finding.

**DOES THE FAIR HOUSING ACT PROHIBIT INTIMIDATION AND RETALIATION?**

It is illegal to coerce, intimidate, threaten, interfere with or retaliate against any person who is exercising his or her fair housing rights or helping someone exercise his or her rights. It is also illegal to threaten the continued employment of someone who objects to fair housing violations.

THE INFORMATION OUTLINED IS ONLY A SUMMARY OF SOME OF THE DUTIES AND RESPONSIBILITIES OF THE COMMISSION. FOR FURTHER INFORMATION, PLEASE CALL THE COMMISSION AT ONE OF THE NUMBERS LISTED ABOVE.

IF YOU HAVE A DISABILITY AND NEED AN ACCOMMODATION RELATIVE TO OUR SERVICES, PLEASE NOTIFY THE COMMISSION.