

STATEMENTS OF POLICY

Title 16—COMMUNITY AFFAIRS

HUMAN RELATIONS COMMISSION

[16 PA. CODE CH. 45]

Housing Accommodations/Commercial Property; Schedule of Penalties, Guidelines For Their Imposition and Procedures for Appeal

The Human Relations Commission (Commission), has adopted the following schedule of penalties, guidelines for their imposition and procedures for appeal to read as set forth in Annex A. The schedule of penalties, guidelines for their imposition and procedures for appeal were adopted in compliance with and under the authority of section 9.3 of the Pennsylvania Human Relations Act (act) (43 P. S. § 959.3). The schedule of penalties, guidelines for their imposition and procedures for appeal are not subject to review under section 205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1205) and are effective for a period not to exceed October 10, 2000. On or before October 10, 2000, this schedule of penalties, guidelines for their imposition and procedures for appeal shall expire and will be replaced by regulations which will have been promulgated, adopted and published as provided by law.

The purpose of this statement of policy is to create a schedule of penalties, guidelines for their imposition and procedures for appeal for violation of section 5 of the act (43 P. S. § 955(h)(5)) by advertisers and publishers in instances when the complainant does not take action to secure housing accommodations or financing and is not denied housing accommodations or financing based on the alleged discriminatory language in the advertisement.

Fiscal Impact

The Commission believes that the schedule of penalties, guidelines for their imposition and procedures for appeal will result in no additional cost to the Commission or to the general public.

Any costs which arise to advertisers or publishers due to a fine imposed upon them are more than offset by the absence of costs of the current adversarial method of case processing.

Paperwork Requirements

Additional paperwork created by the system will be offset by a lessening in the normal case processing paperwork to be eliminated.

Effective Date

The schedule of penalties, guidelines for their imposition and procedures for appeal shall take effect upon publication in the *Pennsylvania Bulletin*.

Contact Person/Public Comments

Interested persons are invited to submit written comments regarding the schedule of penalties, guidelines for their imposition and procedures in writing to Nancy L. Gippert, Assistant Chief Counsel, Human Relations Commission, 101 South Second Street, Suite 300, P. O. Box 3145, Harrisburg, PA 17101.

HOMER C. FLOYD,
Executive Director

(*Editor's Note:* The regulations of the Commission are amended by adding a statement of policy in 16 Pa. Code Chapter 45, §§ 45.201—45.208 (relating to citation procedure—statement of policy) to read as set forth in Annex A.)

Fiscal Note: 52-7. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 16. COMMUNITY AFFAIRS

PART II. GOVERNOR'S OFFICE

Subpart A. HUMAN RELATIONS COMMISSION

CHAPTER 45. HOUSING ACCOMMODATIONS/ COMMERCIAL PROPERTY

Subchapter C. CITATION PROCEDURE—STATEMENT OF POLICY

Sec.

45.201.	Purpose.
45.202.	Initial procedure.
45.203.	Administrative procedures.
45.204.	Hearing.
45.205.	Appeals.
45.206.	Enforcement of orders/nonpayment of civil penalties/default judgment.
45.207.	Schedule of civil penalties.
45.208.	Form.

§ 45.201. Purpose.

Advertisements covered by section 5(h)(5) of the act (43 P. S. § 955(h)(5)) shall be subject to a schedule of civil penalties for violation of section 5(h)(5) of the act by the advertiser and the publisher in instances when the complainant does not take action to secure housing accommodations for financing and is not denied housing accommodations or financing based on the alleged discriminatory language in the advertisement. Section 5(h)(5) of the act states that it is an unlawful act to:

“Print, publish or circulate any statement or advertisement: (i) relating to the sale, lease or acquisition of any housing accommodation or commercial property or the loan of money, whether or not secured by mortgage, or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or commercial property which indicates any preference, limitation, specification, or discrimination based upon race, color, familial status, age, religious creed, ancestry, sex, national origin, handicap or disability or because of the handicap or disability of an individual with whom the person is known to have a relationship or association, or (ii) relating to the sale, lease or acquisition of any housing accommodation or commercial property which indicates any preference limitation, specification, or discrimination based upon use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support of guide animals”

§ 45.202. Initial procedure.

When the Commission becomes aware of an unlawful advertisement, which is subject to a citation, from sources other than aggrieved persons seeking housing or commercial property or financing in connection therewith, the following procedures apply:

(1) The advertisements shall be forwarded to the appropriate regional housing staff in their original form, if possible, with information regarding their publication.

(2) Housing staff shall complete the Commission Citation Form (see § 45.204 (relating to form)).

(i) The form shall be forwarded to the housing director for review and transmittal to the Executive Director/designee.

(ii) The Executive Director/designee shall sign and return the citation to the housing director.

(iii) The Housing Director shall cause the citation to be entered on an appropriate database assigning the citation a number consisting of:

- (A) "C" = Citation
- (B) "1,2,3" = Regional Office
- (C) "Y" = Calendar Year
- (D) "#" = Representing sequential numerical docketing

(3) A copy of the citation and Subchapter B (relating to housing advertisements—guidelines and statement of policy) shall be sent to the parties cited and when appropriate to licensing or regulatory agencies, or both. The letter shall set forth the following options:

(i) Admission of violation and payment of the appropriate civil penalty.

(ii) Denial of violation, payment of the appropriate amount of civil penalty and request for formal hearing. Included in this option is the notice that failure to appear at the hearing will result in a default judgment.

(iii) Admission to some violations and denial of others which would involve appropriate payment, in separate payments, of the amount of civil penalties for those admitted and those denied for which a hearing was requested.

(4) Failure to respond or take any of the options set forth in paragraph (3) within 15 days of service of the citation will result in a default judgment for the full amount of the penalty.

(5) Failure to pay a civil penalty could result in additional penalties, or a request for revocation, suspension of other disciplinary actions against licensees or other action including court proceedings which the Commission deems appropriate.

(6) Procedures will be established in the Commission's Office of Administration to administer the following options:

(i) Process checks and forward them when violations are admitted.

(ii) Denial of violation, payment of the appropriate amount of civil penalty and request for formal hearing. Included in this option is the notice that failure to appear at the hearing will result in a default judgment.

(iii) Admission of some violations and denial of others which would involve appropriate payment (in separate payments) of the amount of civil penalties for those admitted and those denied for which a hearing was requested.

(7) Failure to respond or take any of the actions set forth in paragraph (6) within 15 days of service of the citation will result in a default judgment for the full amount of the penalty.

(8) Failure to pay a civil penalty could result in additional penalties, or a request for revocation, suspen-

sion of other disciplinary actions against licensees or other action including court proceedings which the Commission deems appropriate.

§ 45.203. Administrative procedures.

(a) Procedures will be established in the Commission's Office of Administration to:

(1) Process checks and forward them when violations are admitted.

(2) Escrow checks for those citations when a hearing is requested.

(b) The housing director will note on the appropriate data base:

(1) Citations when violations are admitted and civil penalties paid.

(2) Citations when violations are denied and the following apply:

(i) Payment is received and escrowed and a hearing requested.

(ii) Payment is not received and default judgment is required.

(iii) When no response is received and default proceedings are necessary.

(c) When violations are admitted and payment is made, the following apply:

(1) The fact will be noted and payment forwarded to the Department of Revenue.

(2) The record will be closed.

(3) Letters will be sent to parties advising of closing.

(d) When violations are denied and payment is included, the following apply:

(1) The payment will be noted on the record.

(2) The hearing request will be forwarded to a citation officer.

(3) The parties will be advised.

(4) The housing counsel will prepare the matter for hearing.

(e) When violations are denied and payment is not received, the following apply:

(1) The record will note the deficiency.

(2) The parties will be given written notice of a 5-day extension to submit payment.

(3) If payment is received, the procedure in subsection (b) will be followed.

(4) If payment is still not received, the default procedure will be applied.

(f) If there are both admissions of some violations and denial of some with payment, or nonpayment, the appropriate procedure will be utilized as outlined in this section.

(g) If there is no response, a request for a default judgment shall be made to the citation officer.

(h) The conduct of the hearing by the citation officer in any of these circumstances will be governed by appropriate Commission regulations/requirements or these procedures, or both.

§ 45.204. Hearing.

(a) An order following a hearing shall be issued by the citation officer who may:

- (1) Order the payment of the amount of the citation.
- (2) Modify the amount of payment.
- (3) Dismiss the citation and direct the return of the payment.
- (4) Order remedial actions or reasonable cost, or both.
- (5) Order other appropriate equitable relief.
- (b) Orders affirming a violation shall be referred to any appropriate licensing or regulating agencies, or both, for action as the agencies deem possible.

§ 45.205. Appeals.

Appeals of an order issued by the citation officer shall be made to the Commission.

§ 45.206. Enforcement of orders/nonpayment of civil penalties/default judgment.

Requests for enforcement of nonpayment of civil penalties/default judgment shall be made to the Commission and filed with the appropriate court/agency when approved by the Commission.

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§ 45.207. Schedule of civil penalties.

(a) *Penalties.* The following penalties apply:

	<i>Publisher</i>	<i>Advertiser</i>
First Citation	250	250
Second Citation	500	500
Third Citation	Formal Process	Formal Process

(b) *Formal process.* When, in the Commission's judgment, the action of a party in the event of a third citation warrants, the Commission has the following options:

- (1) To impose a maximum penalty on a multiple basis.
- (2) To file a Commission initiated complaint.
- (3) To seek legal recourse, including those under section 11 of the act (43 P. S. § 961).

§ 45.208. Form.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA HUMAN RELATIONS COMMISSION
101 SOUTH SECOND STREET, SUITE 300
HARRISBURG, PA 17105

CITATION

RESPONDENT FIRST NAME	MIDDLE NAME	LAST NAME	
1.			
RESIDENCE ADDRESS	CITY-TWP-BORO-COUNTY	STATE	ZIP CODE
2.			
BUSINESS ADDRESS			
3.			
CHARGE			
4.			
DATES(S) OF PUBLICATION	MANNER OF PUBLICATION	COPY ATTACHED	
5.	6.	YES ___ NO ___	
STATUTE OR REGULATIONS	CIVIL PENALTY	TOTAL DUE \$	
7.	8. \$	9.	
I VERIFY THAT THE FACTS SET FORTH IN THIS CITATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE OR INFORMATION AND BELIEF. THIS VERIFICATION IS MADE SUBJECT TO THE PENALTIES OF SECTION 4804 OF THE CRIMES CODE (18 PA.C.S § 4904) RELATING TOO UNSWORN FALSIFICATION TO AUTHORITIES.			
SIGNATURE	DATE		
10.			
REMARKS	12. CITATION NO.		
11.			

READ THE ATTACHED PLEA AND THE EXPLANATION OF YOUR RIGHTS AND OBLIGATIONS FOR SETTLEMENT OF THIS MATTER. YOU MUST ELECT AN OPTION AND FOLLOW THE APPROPRIATE DIRECTIONS WITHIN FIFTEEN (15) DAYS TO AVOID FURTHER LEGAL ACTION AGAINST YOU.

SHOULD YOU ELECT TO DEMAND A HEARING ON THIS MATTER, FOLLOW THE INSTRUCTIONS ON THE ATTACHED PLEA. YOUR HEARING DATE WILL BE SET BY A HEARING OFFICER. ALL HEARINGS ARE HELD IN HARRISBURG IN THE PENNSYLVANIA HUMAN RELATIONS COMMISSION CONFERENCE ROOM.

NOTICE OF RIGHTS AND OBLIGATIONS

- 1. The original of this citation will be filed with the Housing Director of the Pennsylvania Human Relations Commission at Pennsylvania Human Relations Commission, Housing Division, 101 South Second Street—Suite 300, Harrisburg, PA 17105.

2. Within fifteen (15) days of the issuance or receipt of this citation, you must:
 - a. ADMIT TO THE VIOLATION(S) by signing the appropriate plea below and mailing the entire Citation along with an amount equal to the Total Due as specified on the Citation (attached) to the Housing Director, at the address listed above, or;
 - b. DENY THE VIOLATION(S)
 - i. in whole by signing the appropriate plea as specified in Section (b) of the Plea (attached) and mailing the Citation along with an amount equal to the Total Due as specified on the Citation (attached) to the Housing Director at the address listed specified above.
 - ii. in part by signing the appropriate plea as specified in Section "c" of the Plea (attached) below and mailing the Citation along with an amount equal to the Total Due as specified on the Citation (attached) to the Housing Director at the address specified above.

If you deny the violation(s), a formal hearing will be scheduled in Harrisburg at which you may present evidence on your behalf. Failure to appear at the formal hearing will result in the entry of a default judgment against you for the full amount of the civil penalty ("Total Due") as specified on the Citation.

3. All payments must be made by certified or cashier's check or money order and made payable to the "Commonwealth of Pennsylvania," and mailed to the Housing Director at the address specified above. Please place the Citation Number on certified or cashier's check or money order. Personal Checks WILL NOT be accepted.
4. FAILURE TO RESPOND WITHIN THE TIME SPECIFIED ABOVE will result in the entry of a default judgment against you for the full amount of the civil penalty ("Total Due") as specified on the Citation. Failure to pay a civil penalty could result in additional fines and the revocation, suspension or other disciplinary action against any license which you may hold.

- a. I ADMIT to the violation(s) on the reverse side of this Citation

Signature	Date
- b. I DENY the violation(s) on the reverse side of this Citation

Signature	Date
- c. I ADMIT to violations _____
 Enter Violation Number(s) here
 have enclosed the amount for these violations and DENY the remaining violation(s) on the reverse side of this Citation

Signature	Date

PLEASE PLACE THE CITATION NUMBER(S)
ON YOUR CERTIFIED OR CASHIER'S CHECK OR MONEY ORDER

Note: A copy of the Pennsylvania Human Relations Commission's guidelines and policy statement on advertising pursuant to Act 34 is attached and incorporated by reference here unto.

[Pa.B. Doc. No. 98-1655. Filed for public inspection October 9, 1998, 9:00 a.m.]
