

§ 100.144 Scope of privilege.

The report or results of a self-test may not be obtained or used by an aggrieved person, complainant, department or agency in any:

(a) Proceeding or civil action in which a violation of the Fair Housing Act is alleged; or

(b) Examination or investigation relating to compliance with the Fair Housing Act.

[62 FR 66432, Dec. 18, 1997]

§ 100.145 Loss of privilege.

(a) The self-test report or results are not privileged under this subpart if the lender or person with lawful access to the report or results:

(1) Voluntarily discloses any part of the report or results or any other information privileged under this subpart to any aggrieved person, complainant, department, agency, or to the public; or

(2) Discloses the report or results or any other information privileged under this subpart as a defense to charges a lender violated the Fair Housing Act; or

(3) Fails or is unable to produce self-test records or information needed to determine whether the privilege applies.

(b) Disclosures or other actions undertaken to carry out appropriate corrective action do not cause the lender to lose the privilege.

[62 FR 66432, Dec. 18, 1997]

§ 100.146 Limited use of privileged information.

Notwithstanding §100.145, the self-test report or results may be obtained and used by an aggrieved person, applicant, department or agency solely to determine a penalty or remedy after the violation of the Fair Housing Act has been adjudicated or admitted. Disclosures for this limited purpose may be used only for the particular proceeding in which the adjudication or admission is made. Information disclosed under this section remains otherwise privileged under this subpart.

[62 FR 66433, Dec. 18, 1997]

§ 100.147 Adjudication.

An aggrieved person, complainant, department or agency that challenges a privilege asserted under §100.144 may seek a determination of the existence and application of that privilege in:

(a) A court of competent jurisdiction; or

(b) An administrative law proceeding with appropriate jurisdiction.

[62 FR 66433, Dec. 18, 1997]

§ 100.148 Effective date.

The privilege under this subpart applies to self-tests conducted both before and after January 30, 1998, except that a self-test conducted before January 30, 1998 is not privileged:

(a) If there was a court action or administrative proceeding before January 30, 1998, including the filing of a complaint alleging a violation of the Fair Housing Act with the Department or a substantially equivalent state or local agency; or

(b) If any part of the report or results were disclosed before January 30, 1998 to any aggrieved person, complainant, department or agency, or to the general public.

[62 FR 66433, Dec. 18, 1997]

Subpart D—Prohibition Against Discrimination Because of Handicap**§ 100.200 Purpose.**

The purpose of this subpart is to effectuate sections 6 (a) and (b) and 15 of the Fair Housing Amendments Act of 1988.

§ 100.201 Definitions.

As used in this subpart:

Accessible, when used with respect to the public and common use areas of a building containing covered multi-family dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical disabilities. The phrase “*readily accessible to and usable by*” is synonymous with accessible. A public or common use area that complies with the appropriate requirements of ICC/ANSI A117.1–2003 (incorporated by reference at §100.201a),