



**California Department of Real Estate  
Industry Advisory**

1651 Exposition Boulevard  
Sacramento, CA 95815  
(877) 373-4542  
[www.dre.ca.gov](http://www.dre.ca.gov)

## **National Fair Housing Month**

April is National Fair Housing Month, which commemorates the passage of the Fair Housing Act in April 1968. As part of its commitment to the principles of fair housing, the Department of Real Estate (DRE) wants to remind licensees about the important California laws intended to address housing discrimination.

### **Prohibitions on Housing Discrimination**

Many California laws relate to prohibiting discriminatory housing practices. Among these are:

1. The Unruh Civil Rights Act, which protects Californians from arbitrary and intentional discrimination by business establishments, including in housing and lending transactions, on the basis of personal characteristics;
2. The California Fair Employment and Housing Act (FEHA), which covers real estate-related transactions and, among other things, imposes liability for practices that have discriminatory effects, even if unintentional; and
3. The Holden Act, which prohibits discrimination related to housing financing.

Last year, the state Legislature passed the Fair Appraisal Act, which will require that every sales contract for real property made after July 1, 2022, include a notice stating that the property appraisal must be unbiased, objective, and not influenced by personal characteristics. DRE licensees, among others, will be required to deliver this same notice when involved in the refinancing of a residential real estate property of up to four units.

Generally, discrimination in housing is illegal if it is based on race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, military or veteran status, familial status (such as households with children under 18), source of income, disability (mental and physical), medical condition, genetic information, age (with the exception of senior-only housing), citizenship, primary language, or immigration status.

Some of these protected characteristics are further defined by statute. For example, the definition of "sex" includes pregnancy, childbirth, or medical conditions related to either of these conditions. Additionally, definitions for some protected characteristics include the perception that the persons have one or more of these characteristics or that they are associated with a person who has or is perceived to have any of these characteristics.

### **California Real Estate Law**

In addition, California Real Estate Law describes several prohibited practices (Commissioner's Regulation 2780). The following conduct, when based on discriminatory intent, are some of the prohibited practices listed in the regulation:

- Refusing to negotiate the sale, rental, or financing of a property.

- Refusing to show, rent, sell, or finance a property, provide information about a property, or steering a person away from a property.
- Discriminating in soliciting or negotiating the sale or purchase of property, in loan servicing, or in soliciting or negotiating mortgage loans.
- Discriminating in the terms, conditions, or privileges of sale, rental, or financing the purchase of property.
- Representing to any person that property is not available for inspection, sale, or rental when such property is in fact available.
- Processing an application more slowly or otherwise acting to delay or avoid the sale, rental, or financing of the purchase of property.
- Refusing or failing to cooperate with or assist another real estate licensee in negotiating the sale, rental, or financing the purchase of property.
- Soliciting sales, rentals, or listings of real estate from any person, but not from another person within the same area because of differences in a protected characteristic.
- Providing information or advice to any person concerning the desirability of particular property or area that is different from information or advice given to any other person.
- Making or publishing any notice or advertisement concerning the sale, rental, or financing of the purchase of property that indicates any preference, limitation, or discrimination.
- Quoting or charging someone a price, rent, or cleaning or security deposit for a particular property that is different from the price, rent or security deposit quoted or charged to any other person because of a difference in a protected characteristic.
- Making any effort to instruct or encourage licensees to engage in any discriminatory act in violation of a federal or state fair housing law.

Further, panic selling is specifically highlighted as a prohibited practice (Business and Professions Code section 10177(l) and Commissioner's Regulation 2781). Panic selling involves soliciting the sale or lease of a residential property because of the loss of value, increase in crime, or decline in the quality of schools due to the presence or prospective entry into the neighborhood of a person of a protected characteristic.

As a part of reasonable supervision requirements, brokers must familiarize employees, affiliated licensees, and staff with the requirements of federal and state laws related to prohibiting discrimination (Business and Professions Code section 10177(h) and Commissioner's Regulation 2725).

### **Department of Real Estate**

DRE takes complaints about discrimination very seriously. We investigate complaints of discriminatory practices and will pursue disciplinary action against licenses, when appropriate. Additionally, the California Department of Fair Employment and Housing enforces and prosecutes violations of FEHA and the Unruh Act. The U.S. Department of Housing and Urban Development (HUD) investigates complaints related to discrimination under the federal Fair Housing Act and other civil rights violations in housing and community development programs. All of these agencies refer complaints to one another to make certain that all appropriate actions are considered and pursued.

DRE licensees should become familiar with all aspects of the fair housing laws that prohibit discrimination in housing and are strongly encouraged to advise their clients about the requirements of these laws. Additionally, regardless of instructions or requests received from their clients, licensees may not engage in, participate in, or assist any person to engage or participate in a discriminatory housing practice. Good faith participation in advancing a client's

demands that are discriminatory under FEHA is not a defense to civil or administrative liability or to a DRE license disciplinary proceeding.

DRE remains committed to educating licensees and the public about fair housing law requirements, enforcing violations when they occur, and working with licensees to reduce discrimination in housing.

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