

THE FAIR HOUSING ACT (42 USC 3601)

The Fair Housing Act prohibits discrimination in housing because of the Seven Basis:

- 1) Race 2) Color 3) National Origin 4) Sex 5) Religion 6) Disability/Handicap
- 7) Familial Status (including pregnant Females)

What housing is covered?

The Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

What is prohibited?

➤ In the sale and rental of housing:

No one may take any of the following actions based on race, color, national origin, religion, sex, familial status, or handicap:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions, or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale, or rental
- For profit, persuade owners to sell or rent (blockbusting)
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

Landlords are not required to lease to persons who represent a direct threat to the health or safety of others or who currently use illegal drugs.

➤ In mortgage lending:

No one may take any of the following actions based on race, color, national origin, religion, sex, familial status, or handicap:

- Refuse to make a mortgage loan
- Refuse to provide information regarding loans
- Impose different terms or conditions on a loan, such as different interest rates, points, or fees
- Discriminate in appraising property
- Refuse to purchase a loan
- Set different terms or conditions for purchasing a loan

In addition, it is illegal for anyone to:

- Threaten, coerce, intimidate, or interfere with anyone exercising a fair housing right or assisting others who exercise that right.
- Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status, or handicap. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.

Additional protections for persons who have or who are associated with someone who:

- Has a physical or mental disability that substantially limits one or more major life activities
- Has a record of such a disability
- Is regarded as having such a disability

Landlords may not:

- Refuse to permit (at the expense of the disabled tenant) reasonable modifications of existing premises occupied or to be occupied by such person if such modification may be necessary to afford the person full enjoyment of the premises. In the case of rental dwellings, the landlord may, where it is reasonable to-do-so condition, permission for a modification based on the tenant's agreement to restore the interior of the premises to the condition that existed before the modification.
- Refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling. For example, a landlord with a "no pets" policy must allow a visually impaired tenant to keep a guide dog. Another example is, if an apartment complex offers tenants ample, unassigned parking it must consider a request from a mobility-impaired tenant for a reserved space near his/her apartment if the space is necessary to assure that the tenant has access to his/her apartment.

There is also design and construction requirements for residential buildings containing four or more units that were ready for first occupancy after March 13, 1991.

- Public and common use areas must be accessible to and usable by persons with disabilities
- Doors and hallways must be wide enough for wheelchairs
- All units that are either on an accessible route or serviced by an elevator must have:
 - An accessible route into and through the unit
 - Accessible light switches, electrical outlets, thermostats, and other environmental controls in accessible locations
 - Reinforced bathroom walls to allow later installation of grab bars
 - Kitchen and bathrooms that can be used by people in wheelchairs

Housing opportunities for families with children under the age of 18

Unless a building or community qualifies as housing for older persons, it may not discriminate on the basis of the household's familial status. That is, it may not discriminate against households in which one or more children under the age of 18 live with:

- A parent or parents
- A person who has legal custody of the child or children
- The designee of the parent or legal custodian, with the parent or custodian's written permission

Familial status protection also applies to pregnant women and anyone securing legal custody of children under the age of 18.

Exemption:

Housing for older persons is exempt from the prohibition against familial status discrimination if:

- The HUD Secretary has determined that the development is specifically designed for and occupied by elderly persons under a Federal, State, or local government program
- The development is occupied solely by persons who are 62 or older or
- Within the development, at least 80 percent of the occupied units have at least one person who is 55 or older and the development adheres to a policy that demonstrates an intent to house persons who are 55 or older.

CONCILIATION: During the period beginning with the filing of a complaint and ending with the filing of a charge or the dismissal of the complaint, HUD will, to the extent feasible, engage in conciliation with respect to such complaint. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and complainant, and shall be subject to the approval of HUD.