



Housing Discrimination Under The Fair Housing Act – Focus on SFH

Civil Rights Office



The Fair Housing Act also known as The Civil Rights Act of 1968

Housing Discrimination is illegal in nearly all housing, including private housing, public housing, and housing that receives federal funding.

Fair Housing Questions

What is Fair Housing Act?

Who is Protected?

What Types of Housing are Covered?

What is Prohibited?

What is Fair Lending?



What is Fair Housing Act?

The Fair Housing Act

- The Fair Housing Act protects people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities.
- On April 11, 1968, President Lyndon Johnson signed the Civil Rights Act of 1968, which was meant as a follow-up to the Civil Rights Act of 1964. The 1968 Act expanded on previous acts and prohibited discrimination in the sale, rental, and financing of housing based on race, religion, national origin, sex (and as amended) familial status and disability.
- Fair Housing means Equal Access

Who is Protected?

Who is Protected?

The Fair Housing Act prohibits discrimination in housing because of:

- Race
- Color
- National Origin
- Religion
- Sex (Gender)
- Familial Status (Presence of children under the age of 18, pregnant female, securing custody, and designee of custodian)
- Disability

What Types of Housing are Covered?

What Types of Housing are Covered?

Virtually ALL housing related transactions are covered, including:

- Renting or buying a house, an apartment, condo or mobile home
- The terms or conditions of a rental, such as rules and policies
- Reasonable accommodations or modifications for a person with a disability
- Mortgage lending, appraisals, insurance
- Advertising

What Types of Housing are Covered? Continued



Exemptions

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

What makes discrimination illegal?

Discrimination
means being
treated
differently than
others

Not all
discrimination is
illegal

Illegal
discrimination =
Covered Items +
Covered Basis

Refusing to sell
housing to
someone (issue)
because she is a
women (Basis)

Discrimination can also mean:

Failure to reasonably accommodate a person's disability

A person who is deaf may need an interpreter to assist in filling out an application to afford the person with a disability equal access to services for obtaining a loan.

Examples of Lending Discrimination

Denying	Denying a mortgage or charging a higher interest rate because the property is located in a majority-minority neighborhood
Providing	Providing a different customer service experience to mortgage applicants depending on their race, color, religion, sex, familial status, national origin or disability
Refusing	Refusing to consider a mortgage applicant's disability-related income, such as SSI or SSDI
Steering	Steering a borrower to a loan with less favorable terms because of his or her race, color, religion, sex, familial status, national origin or disability
Targeting	Targeting a minority community for fraudulent home loan modification assistance
Refusing	Refusing to provide mortgages to women on maternity leave

Who must comply with the Fair Housing Act?

Can include, but is not limited to:

- Any person and/or entity involved in the rental or sale of a dwelling or the advertisement of a dwelling;
- Any person and/or entity involved in the design and construction of new dwellings;
- Any person and/or entity involved in real estate related transactions such as mortgage lending, property/hazard insurance, zoning, municipal services

This means...

- Property Owners
- Property Managers
- Property Maintenance Staff
- Real Estate Brokers or Agents
- Homeowners/Condominium Associations
- Housing Authority Staff
- Housing Developers and Contractors
- Mortgage Lenders and Financial Institutions
- Advertising Media

What is Prohibited?

In the sale and rental of housing:

In the sale and rental of housing: It is illegal to take any of the following actions because of race, color, religion, sex, disability, familial status, or national origin:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Otherwise make housing unavailable
- Set different terms, conditions or privileges for sale or rental of a dwelling
- Provide a person different housing services or facilities
- Falsely deny that housing is available for inspection, sale or rental

In the sale and rental of housing Cont'd

What is Prohibited?

- Make, print or publish any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination
- Impose different sales prices or rental charges for the sale or rental of a dwelling
- Use different qualifications criteria or applications, or sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analyses, sale or rental approval procedures or other requirements

What is Prohibited?

In the sale and
rental of
housing
cont'd

- Evict a tenant or a tenant's guest
- Harass a person
- Fail or delay performance of maintenance or repairs
- Limit privileges, services or facilities of a dwelling
- Discourage the purchase of a rental or a dwelling
- Assign a person to a particular building or neighborhood or section of a building or neighborhood

In the sale and rental of housing: continued

What is Prohibited?

- For profit, persuade, or try to persuade, homeowners to sell their homes by suggesting that people of a particular protected characteristic are about to move into the neighborhood (blockbusting)
- Refuse to provide or discriminate in the terms or conditions of homeowners insurance because of race, color, religion, sex, disability, familial status, or national origin of the owner and/or occupants of a dwelling
- Deny access to a membership in any multiple listing service or real estate brokers' organization

In Mortgage Lending

What is Prohibited?

It is illegal discrimination to take any of the following actions based on race, color, religion, sex, disability, familial status, or national origin:

- Refuse to make a mortgage loan or provide other financial assistance for a dwelling
- 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 a dwelling
- Condition the availability of a loan on a person's response to harassment
- Refuse to purchase a loan

What is Prohibited?

Harassment

The Fair Housing Act makes it illegal to harass persons because of race, color, religion, sex, disability, familial status and national origin. Among other things, this forbids sexual harassment.

What is Prohibited?

Other Prohibitions

In addition, it is illegal discrimination to:

- Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise this right.
- Retaliate against a person who has filed a fair housing complaint or assisted in a fair housing investigation.

What is Prohibited?

Advertising

In nearly all housing, including private housing, public housing, and housing that receives federal assistance, the Fair Housing Act prohibits the making, printing, and publishing of advertisements that indicate a preference, limitation of discrimination because of protected bases mentioned earlier.

This prohibition applies to publishers as well as newspapers and directories, as well as persons and entities who place real estate advertisements in newspapers and on websites.

It also applies where the advertisement itself violates the Act, even if the property being advertised may be exempt from the provisions of the Act. Other federal Civil Rights laws may also prohibit discriminatory advertising practices.

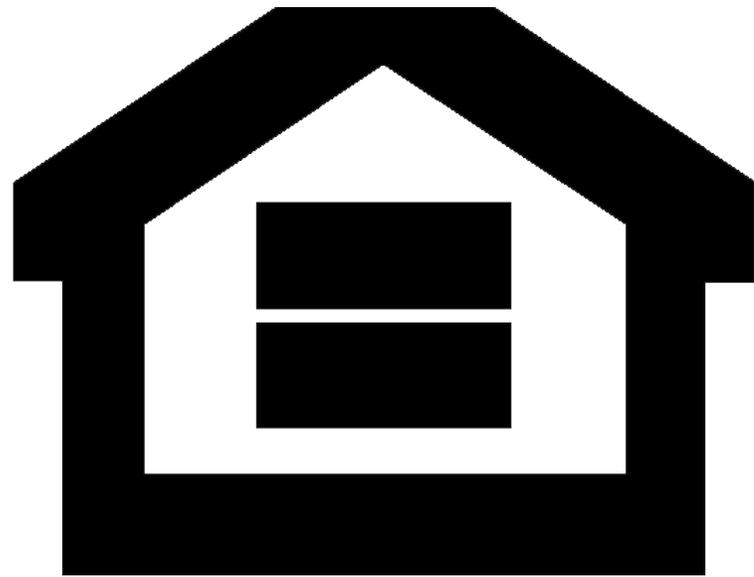
Advertising continued

- **A. Fair Housing and Affirmative Fair Housing Marketing Plan**
- All advertising must meet equal housing opportunity requirements and contain the equal housing opportunity statement and logo. An Affirmative Fair Housing Marketing Plan is required whenever there are 5 or more REO properties for sale in the market area at the same time. The plan remains in effect for 1 year or until all properties covered under the plan are sold, whichever is later. When an exclusive broker contract is used, the plan is prepared by the broker and approved by the State Director or National Financial and Accounting Operations (NFAOC). When a sale is conducted by the Agency or under an open listing agreement, the plan is prepared by the Agency and must be approved by the State Director or NFAOC. RD Instruction 1901-E provides more guidance on civil rights requirements.
- **B. Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA) Integrated Mortgage Disclosures rule (TRID)**
- If the availability of Agency financing will be advertised, marketing efforts must conform to the requirements of the TRID. Exhibit 16-3 highlights these requirements.
- **C. Advertising and Marketing Methods**
- Advertising efforts should be designed to reach a broad audience. The Agency should identify appropriate marketing efforts and tailor them for each market area. At a minimum, the property should be posted on the USDA REO Sales website and posted on the Agency office bulletin board.

Advertising cont'd

Other marketing efforts that may be appropriate include:

- Posting advertisements in public locations accessible to prospective purchasers, including community bulletin boards and major employment sites;
- Informing current and potential program applicants or investors of the availability of real estate owned (REO) properties.
- Ensuring that the listing broker has the property listed (with pictures) on popular internet home search sites such as the Multiple Listing Service, Realtor.com, Zillow, Redfin, or other popular sites in the local geographic area.
- Inform loan application packagers, nonprofits, and other stakeholders working in the property's service area.



**EQUAL HOUSING
OPPORTUNITY**

Nondiscrimination in Real Estate Owned Properties (REO)

Ensure that REO advertisements contain the Fair Housing Logotype

Ensure words “Equal Housing Opportunity” are underneath the house

Fair Lending

What is Fair Lending?

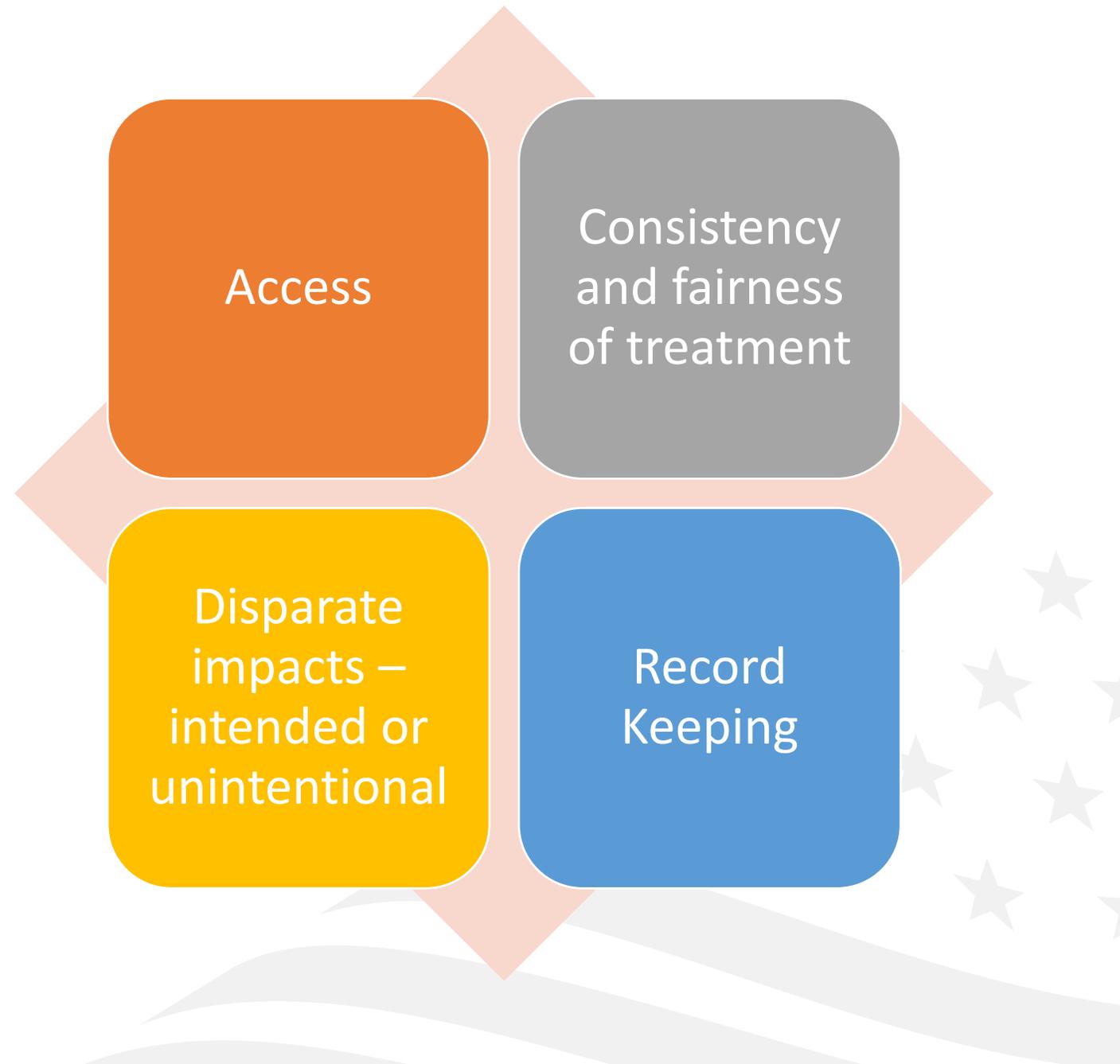
The Fair Housing Act prohibits discrimination in loans that are secured by residential real estate or that are for the purchasing, constructing, improving, repairing or maintaining of a dwelling. This includes mortgages, refinancing, home equity loans and home improvement loans.

Reasonable Accommodations

Reasonable Accommodations for Persons with Disabilities

- The Agency must make reasonable accommodations to permit persons with disabilities to apply for and benefit from Agency programs. Reasonable accommodations may include providing facilities that are physically accessible so that all people can come to Agency offices, and effective communication and outreach tools so that all applicants can get good program information (for example, a Telecommunications Device for the Deaf (TDD)).

Key Civil Rights Issues for Loan Origination





Consistent procedures in especially important in the following key areas:

- **Outreach.** Information about the availability of the program and how to apply must be broadly disseminated and the extent of the information, assistance, and courtesy extended to those who make inquiries must be consistent.
- **Application-taking procedures.** Application-taking procedures must be fair and accessible to all potential applicants.
- **Determining eligibility.** Loan Originators must use equal rigor for all applicants when verifying income, conducting credit checks, and allowing applicants to clarify information.
- **Making exceptions.** Standards for offering exceptions must be applied consistently.
- **Loan terms and subsidies.** Opportunities for subsidies and favorable loan terms must be made available consistently.
- **Hearings and appeals.** Avenues for remedies when problems arise must be accessible to all applicants.



Fair Housing Act Statement

The Fair Housing Act prohibits discrimination in real estate related transactions or in the terms of conditions of such a transaction, race, color, religion, sex, disability, familial status, or national origin.

The Federal agency that is responsible for enforcing this law is the U. S. Department of Housing and Urban Development. If a person believes that they have been discriminated against in violation of this law, they should contact the U. S. Department of Housing and Urban Development, Washington, D.C. 20410 or call (800) 669-9777.

Laws Affecting Direct Single Family Loan Program Civil Rights 7-CFR-3550.3

Exhibit 1-1

Major Civil Rights Laws Affecting the Direct Single Family Loan Program

- **Equal Credit Opportunity Act (ECOA).** Prohibits discrimination in the extension of credit on the basis of race, color, religion, national origin, sex, marital status, age, income from public assistance and exercise of rights under the Consumer Protection Act.
- **Title VI of the Civil Rights Act of 1964.** Prohibits discrimination in a Federally-assisted program on the basis of race, color, and national origin.
- **Title VIII of the Civil Rights Act of 1968 (also known as the Fair Housing Act of 1988, as amended).** Prohibits discrimination in the sale, rental or financing of housing on the basis of race, color, religion, sex, national origin, familial status, or disability.
- **Section 504 of the Rehabilitation Act of 1973.** Prohibits discrimination in a Federally-conducted program on the basis of disability.
- **Age Discrimination Act of 1975.** Prohibits discrimination in a Federally-assisted program on the basis of age.
- **Executive Order 11063 as Amended by 12259.** Prohibits discrimination in housing or residential property financing to any Federal-assisted activity against individuals on the basis of race, color, religion, sex, or national origin.
- **Executive Order 11246.** Nondiscrimination in employment by construction contractors (and subcontractors) receiving Federally-assisted construction contracts in excess of \$10,000. It provides for equal employment opportunity without regard to race, color, religion, sex, and national origin.
- **Executive Order 13166.** Prohibits discrimination on the basis of national origin, and ensures programs normally provided in English are accessible to persons with Limited English Proficiency (LEP).

Loan Packagers Must:

Comply with the Equal Credit Opportunity Act and the civil rights requirements contained in RD Instruction 1901-E.

Prepare an Affirmative Fair Housing Marketing plan (AFHMP), if they intend on submitting five or more loan application packages to purchase and/or construct dwellings in the same subdivision. The completed AFHMP must be submitted to the local Rural Development office for review and approval.

Contractors— AFHMP

- If a contract includes marketing or broker services and involves management of 5 or more single family homes in the same subdivision, the contractor must develop and obtain Agency approval of an Affirmative Fair Housing Marketing Plan, as described in RD Instruction 1901-E. The contracting official approves the plan, however, any questions that might arise with respect to an Affirmative Fair Housing Marketing Plan should be directed to the Civil Rights Office.

Construction Contracts > \$10,000 Notification Requirements

1901-E(b)(3)(iv) and
HB-1-3550, 5.25 D
requires RD
employees to notify
the US Dept. of Labor
of Federally funded
contracts greater than
\$10,000

Utilize current fillable
1901-E Exhibit C
notification form

Must be sent within
10 days after contract
signed

Form can be e-mailed
to address on exhibit

Complaint Intake Process

- Initial Steps. When a complaint is transmitted to a State Office or Area office; it must be submitted immediately to the OASCR, Office of Adjudication and Compliance (OAC) through Rural Development's National Office Civil Rights staff.
 - Complaints are received via telephone, email or mail
 - Complete the complaint intake form and send it to RD National Office Civil Rights. It can be scanned and emailed or mailed to National Office.
- Complaint Intake Form AD-3027
 - USDA Office of the Assistant Secretary for Civil Rights
 - 1400 Independence Ave. SW, Stop 4910
 - Washington, DC 20250-9410
 - https://www.ascr.usda.gov/sites/default/files/Complain_combined_6_8_12_508_0.pdf



USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call the toll-free customer service line at (866) 632-9992. Submit your completed form or letter to USDA by:

mail: U.S. Department of Agriculture

Office of the Assistant Secretary for Civil Rights

1400 Independence Avenue, SW

Washington, D.C. 20250-9410;

Fax: (202) 690-7442

email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

Contact information

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Rural Development

U.S. DEPARTMENT OF AGRICULTURE