



***INFORMATION
PROFESSIONALS, INC.***

Fair Housing

3 Hours Illinois Elective credit

Table of Contents

FAIR HOUSING.....	3
CIVIL RIGHTS ACT OF 1866.....	3
ENFORCEMENT	3
Federal Fair Housing Act of 1968	3
1988 Amendments to Fair Housing Act	4
Prohibited Acts.....	5
Block Busting.....	6
Steering	7
Discriminatory Advertising.....	7
Redlining	8
Discrimination in Providing Brokerage Services	8
Exemptions	8
Enforcement and Penalties.....	9
Community Reinvestment Act	10
Illinois Human Rights Act	10
Exemptions	11
Enforcement and Penalties.....	12
Equal Housing Opportunity Today.....	12
Americans with Disabilities Act.....	13
LOCAL FAIRHOUSING LAWS.....	14
COOK COUNTY PROTECTED CLASSES.....	14
City of Chicago Protected Classes	20
Local Discrimination Laws.....	21
Test Your Knowledge - T/F.....	23
Answers.....	24
FAIR HOUSING ACT	25

FAIR HOUSING

Two federal laws prohibit discrimination in housing; (a) the Civil Rights Act of 1866 and (b) the Fair Housing Act of 1968, together with its important 1974 and 1988 amendments. The 1866 law prohibits all discrimination based on race in both real and personal property. The Fair Housing Act of 1968 and its subsequent amendments apply specifically to housing.

CIVIL RIGHTS ACT OF 1866

The first significant statute affecting equal housing opportunity is the federal Civil Rights Act of 1866. Far from being obsolete, this statute has had a major impact on fair housing concepts, through a landmark case in 1968, the year the Federal Fair Housing Act became law. Although the 1968 statute, discussed later, provides for a number of exemptions, the 1866 law has no exemptions and contains the blanket statement that all citizens have the same rights to inherit, buy, sell, or lease all real and personal property. This statute is interpreted to prohibit all racial discrimination.

In the case of *Jones v. Alfred H. Mayer Company*, the US Supreme Court applied the Civil Rights Act of 1866 to prohibit any racially based discrimination in housing. The ruling provides an interesting interplay between the 1866 act and the 1968 amendments to the Federal Fair Housing Act, because the exemptions provided for in the 1968 law cannot be used to enforce any racial discrimination.

ENFORCEMENT

If discrimination on the basis of race occurs, the aggrieved party can file an action in federal district court for an injunction and damages.

Federal Fair Housing Act of 1968

Originally enacted by Congress as Title VIII of the Civil Rights Act of 1968, the Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, or national origin. An amendment in the Housing and Community Development Act of 1974 added the prohibition against discrimination on the basis of sex. The Fair Housing Amendments Act of 1988 added provisions to prevent discrimination based on mental or physical handicap or familial status.

Real estate licensees should be aware of an amendment to the 1968 law that requires all offices to prominently display the Fair Housing Poster. Upon investigation of a discrimination complaint, failure to display the poster could be conclusive proof of failure to comply with the federal law.

1988 Amendments to Fair Housing Act

Although the Fair Housing Act of 1968 established broad responsibilities in providing fair housing for the nation, it essentially lacked teeth for enforcement. Until 1988, the role of the US Department of Housing and Urban Development (HUD) was limited to that of a negotiator, trying to effect a voluntary conciliation between the affected parties through the force of persuasion. Although aggrieved parties could always take their complaints to a federal court and seek civil damages, this often was not a reality because of the burden of legal expense on the discriminated party.

In addition, Congress found that although racial complaints were becoming less frequent, a major problem was discrimination against families with young children and against people with disabilities. To address these concerns, Congress passed sweeping amendments to the act that became effective March 12, 1989. Here is a synopsis of those amendments.

Protected classes now include individuals with disabilities, mental or physical impairments that impede any of their life functions. Landlords must allow a tenant with disabilities to make reasonable modifications to an apartment, at the tenant's expense, to accommodate special needs. Tenants, for example, must be allowed to install a ramp or widen doors to accommodate a wheelchair, or install grab bars in a bathroom. At the end of their tenancy, the premises must be returned to their original condition, also at the tenant's own expense.

Also, new multifamily construction to be occupied two years from the effective date of the 1988 amendments must provide certain accommodations for people with disabilities, e.g., switches and thermostats at a level that can be operated from a wheelchair, reinforced walls to install grab bars, and kitchen space that will permit maneuverability in a wheelchair.

Another added protected class is familial status. Familial status is defined as an adult with children under 18, a person who is pregnant, one who has legal custody of a child or who is in the process of obtaining such custody. Thus, landlords are prohibited from advertising "adults only" in most circumstances. The amendments, however, provide for elderly housing if (a) all units are occupied by individuals age 62 or older or (b) 80 percent of the units have persons age 55 or older.

In December 1995, an amendment was passed removing the requirement for “facilities and services to accommodate the physical and social needs of the elderly.” The amendment clarified the requirements for the exemption. To qualify as “55 or older housing” the complex must have at least one person 55 or older in 80 percent of its units and the association or owners must have a written policy of intent to serve residents 55 and over. The amendment protects real estate professionals from being sued in cases where in “good faith” they act on the written word of a housing association that the complex meets the “55 and over” criteria and later find that it does not.

The 1988 amendments added major enforcement provisions. Previously, HUD could use only persuasion, but now HUD can file a formal charge and refer the complaint to an administrative law judge (ALJ) unless the aggrieved party or the charged party elects a jury trial in a civil court. The ALJ, who hears complaints regarding violations of the 1988 amendments, can impose substantial fines from \$10,000 to \$50,000 for subsequent offenses.

Enforcement is further strengthened by the expanding role of the US Attorney General to initiate action in the public interest that could result in fines of as much as \$50,000 on the first offense. This will occur only upon the finding of a pattern of discrimination. The Attorney General will take the role of the aggrieved party, freeing the actual aggrieved party from the legal expense of pursuing the case.

Prohibited Acts

As the law presently exists, discrimination on the basis of race, color, religion, sex, national origin, handicap, or familial status is illegal in the sale or rental of housing or residential lots, advertising the sale or rental of housing, financing housing, and providing real estate brokerage services. The act also makes block busting (also called panic pedaling) and racial steering illegal.

A few special exemptions are available to owners in renting or selling their own property (examined later in the chapter). In the absence of an exemption, the following specific acts are prohibited:

Refusing to sell or rent housing or to negotiate the sale or rental of residential lots on the basis of discrimination because of race, color, religion, sex, national origin, disability, or familial status. This includes representing to any person on discriminatory grounds “that any dwelling is not available for inspection, sale, or rental when in fact such dwelling is available.” It is also illegal “to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to a person” because

of race, color, religion, sex, national origin, disability, or familial status. Examples of violations of these prohibited acts are:

- advising a prospective buyer that a house has been sold, because of the prospect's national origin, when it has not
- refusing to accept an offer to purchase because the offeror is a member of a certain religion
- telling a rental applicant that an apartment is not available for inspection because the applicant is a female (or male) when the apartment is actually vacant and available for inspection
- refusing to rent to a person who uses a wheelchair or make reasonable modifications (at the tenant's expense) to an apartment to accommodate the wheelchair
- refusing to rent to a family with children

2. The act makes it illegal "to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, disability, or familial status."

Examples of prohibited acts in this category are:

- requiring tenants to have a security deposit in an amount equal to one month's rent, except when the rental applicant is Hispanic, in which case the required deposit is increased to two months' rent
- restricting use of the apartment complex swimming pool to white tenants only
- including in the purchase of a condominium apartment a share of stock and membership in a nearby country club, provided the purchaser is not Jewish
- charging a larger deposit to a couple with young children
- charging a higher rent to a person in a wheelchair

Block Busting

The act specifically makes block busting illegal. This practice is defined as: to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, disability or familial status." Block busting occurs when real estate

licensees induce owners to list property for sale or rent by telling them that persons of a particular race, color, national origin, sex, religion, disability, or familial status are moving into the area. Block busting also occurs when real estate firms sell a home in an area to a person of a particular race, color, national origin, sex, religion, disability, or familial status with the sole intent to cause property owners in the neighborhood to panic and place their property for sale at reduced or distressed prices.

Steering

In steering, another violation resulting from the acts of licensees, real estate licensees direct prospective purchasers, especially minority purchasers, toward or away from specific neighborhoods to avoid changing the racial or ethnic makeup of neighborhoods. The prohibition against steering falls under the general prohibition of refusing to sell, rent, or negotiate the sale or rental of housing or residential lots. Examples of steering are:

- showing a white prospect properties only in areas populated only by white people
- showing African American prospects properties only in integrated areas or areas populated only by African Americans
- Showing Polish prospects properties only in areas populated by Poles

Discriminatory Advertising

Discriminatory advertising, that which shows preference based on race, color, religion, sex, national origin, disability, or familial status, is illegal. The act specifies that it is illegal to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, concerning the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, disability, or familial status. Examples of violations are:

- A series of advertisements for the sale of condominium units or rental apartments containing pictures that show owners or tenants on the property of only one race
- An advertisement stating that the owner prefers tenants who are male college students
- A for sale sign specifying “no Puerto Ricans”
- A statement to prospective white tenants by a real estate salesperson that black tenants are not permitted

- An apartment advertisement stating “adults only”

Redlining

In the past, areas populated by minorities were redlined. Prior to enactment of the Fair Housing Act, some lending institutions circled certain local areas with a red line on the map, refusing to make loans within the circled areas based upon some characteristic of property owners in the area. The act prohibits lending institutions from redlining, or refusing to make loans to purchase, construct, or repair a dwelling by discriminating on the basis of race, color, religion, sex, national origin, disability or familial status.

The Fair Housing Act does not limit the prohibition to the refusal to make loans. The prohibition against discrimination applies to those who deny a loan or who deny financial assistance to a person applying for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling. The prohibition also extends to individuals who discriminate in fixing terms of the loan, including interest rates, duration of loan, or any other terms or conditions of the loan.

Discrimination in Providing Brokerage Services

The act prohibits discrimination in providing real estate brokerage services and states “it is unlawful to deny any person access to or membership or participation in any multiple listing service, real estate broker’s organization, or other service relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, national origin, disability or familial status.” This provision of the Fair Housing Law makes illegal the denial of membership or special terms or conditions of membership in any real estate organization on discriminatory grounds. The prohibition extends to access to a multiple listing service.

Exemptions

The Fair Housing Law provides exemptions to property owners under certain conditions. Exemptions from the 1968 Fair Housing Act as amended are available as follows:

- An owner of no more than three single-family dwellings at any one time is exempt. Unless the owner was living in or was the last occupant of the dwelling sold, he or she is limited to only one exemption in any 24-month period.

- An owner of an apartment building containing up to four units is exempt in rental of the units provided the owner occupies one of the units as a personal residence.
- Religious organizations are exempt as to properties owned and operated for the benefit of their members only and not for commercial purposes provided that membership in the organization is not restricted on account of race, color, national origin, sex, disability, or familial status.
- A private club not open to the public is exempt as to the properties the club owns to provide lodging for the benefit of the membership and not for commercial purposes.

None of these exemptions are available if either of the following has occurred:

1. Discriminatory advertising has been used.
2. The services of a real estate licensee, associate or any person in the business of selling or renting dwellings are used. A person is deemed to be in the business of selling or renting dwellings if:
 - The individual has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein.
 - The person has, within the preceding 12 months, participated as agent (excluding the sale of personal residence) in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein.
 - The individual is the owner of any dwelling designed or intended for occupancy by five or more families.

Although the Federal Fair Housing Act does have its exemptions, there are probably no exemptions under the local fair housing law. Check with your local municipality on their fair housing ordinances.

Enforcement and Penalties

The Fair Housing Act may be enforced in three ways:

By administrative procedure through HUD's Office of Equal Opportunity. HUD may act on its own information and initiative. HUD must act in response to complaints. If a state or local law where the property is located is substantially equivalent, HUD must refer the complaint to the

state or local authorities. Complaints must be in writing and state the facts upon which an alleged violation is based. If HUD or the state organization is unable to obtain voluntary conciliation, a charge will be filed and the case referred to an administrative law judge, unless either party elects to have the case tried in a civil court.

The ALJ may impose a civil penalty of up to \$10,000 for a first offense, \$25,000 if another violation occurs within five years, and \$50,000 if two or more violations occur in seven years. An individual can be fined \$25,000 or \$50,000 without limitation of time periods if he or she engages in multiple discriminatory practices.

The aggrieved party, with or without filing a complaint to HUD, may bring a civil suit in federal district court within one year of the alleged violation of the act unless a complaint has been filed with HUD, in which case the period is two years. If the aggrieved party wins the case, the court may issue an injunction against the violator and award actual damages and punitive damages with no limitation by the statute.

The US Attorney General may file a civil suit in any appropriate US district court where the Attorney General has reasonable cause to believe that any person or group is engaged in a pattern of violation of the act and, as such, raises an issue of general public importance. The court may issue an injunction or restraining order against the person responsible and impose fines up to \$50,000 to “vindicate the public interest.” A first-time fine of \$50,000 may be imposed where a “pattern of practice” of discrimination is discovered.

Due process, whether judicial or administrative, is accorded to all parties. This includes the right of appeal. A jury trial can be requested where monetary demands are involved.

Community Reinvestment Act

The Community Reinvestment Act was passed by Congress in 1977 and requires that financial institutions conduct activities and provide services to meet the credit and deposit needs of all members of their communities. Examples of such services would be offering basic checking as an alternative to currency exchange fees for those persons on public assistance and helping low-to moderate-income families pay their property taxes with a one-time property tax loan to be repaid within 12 to 24 months. A federal supervisory agency prepares a written evaluation of an institution’s compliance with the Community Reinvestment Act.

Illinois Human Rights Act

The Illinois Human Rights Act prohibits discrimination against a person because of: race, color,

religion, national origin, physical or mental disability, familial status, ancestry, age, sex, marital status, perceived disability, military status, unfavorable discharge from the military service, sexual orientation, and the most recent addition, a holder of an order of an Order of Protection. A holder of an order of protection cannot be evicted because of a lessors fear. The lessor might fear the abuser entering the property seeking the holder of the Order and damaging the property or harming the holder or other tenants. If such a disturbance does take place, the lessor is still prohibited from evicting the holder.

It prohibits discrimination in the sale or rental of real estate against families with children under the age of 18 or against people with vision, hearing, or physical impairments who require a guide, hearing, or support animal, although a charge can be made for actual damages to the property caused by the animal. Further, no discrimination is allowed against persons with these disabilities in the terms, conditions, privileges, provision of services or facilities, or extra charge in a lease or sales contract.

In states like Illinois, that have a law substantially equivalent to the federal fair housing law, a complaint based on the federal law may be referred to the Illinois Human Rights Commission. The case may be heard by the Illinois Human Rights Commission or, if either party so elects, by a state circuit court.

Contracts relating to real property are void and in violation of civil rights if they forbid or restrict the conveyance, encumbrance, occupancy, or lease of, or limit use of or right of entry on the basis of race, color, religion, or national origin. In addition, the law forbids a refusal to sell or rent and prohibits discriminatory differences in price, terms, or other conditions of a real estate transaction, as well as in financing of the transaction. Property operated, supervised, or controlled by religious institutions or charitable organizations and used for religious or charitable purposes can limit the use of such properties.

Exemptions

The Illinois Human Rights Act has six exemptions:

The sale of a single-family home by its owner is exempt as long as:

- a. The owner does not have beneficial interest in more than three single family homes at the time of the sale.
- b. The owner or a member of the family was the last resident.
- c. The home is sold by the owner without the use of any real estate licensees or agents of licensees, sales, or rental facilities.

- Apartments in buildings for not more than five families are exempt if the lessor or a member of the family lives in one of the apartments.
- Room(s) in a private home where the owner or a member of the family lives or expects to live within one year are exempt.
- Restricting the rental or sale of housing to persons of a certain age group is allowed when the housing is authorized, approved, financed, or subsidized for the benefit of that age group by any form of government or when the duly recorded initial declaration of a condominium or community association limits housing to elderly persons, provided that the owner or a member of the owner's immediate family was not in violation prior to recording as long as they continue to own or reside in such housing.
- If membership in a religion is not restricted on account of race, color, or national origin, the religious organization or any nonprofit institution may limit the sale, rental, or occupancy of a property that it owns or operates, for other than commercial purposes, to persons of the same religion or give preference to such persons.
- Restricting the rental of rooms in a housing accommodation to persons of the same sex is permitted.

Although the Illinois Human Rights Act, as stated here, does have exemptions, there are probably no exemptions under the local fair housing law. Check with your local municipality on their fair housing ordinances.

Enforcement and Penalties

Enforcement of state laws typically is through injunctive relief or damages, or both, after a hearing or negotiated settlement. The amount of damages is determined by a civil court. The state also may require a person found guilty of violating the state laws to take affirmative action. The affirmative action could be in the form of community service, advertisements concerning fair housing, sponsorship of a seminar on fair housing, or the like. An Illinois licensee who is found guilty of illegal discrimination will have his or her license revoked or suspended unless the adjudication or the order is in the appeal process. OBRE may also impose a fine of up to \$10,000.

Equal Housing Opportunity Today

Many people have the idea that the issue of fair housing has long been resolved through

actions such as the civil rights movements of the 1960s. Despite the intention of both the 1866 and the 1968 civil rights acts to provide equal housing opportunity for all citizens, this goal has not been achieved in practice. Although the Fair Housing Act has been in effect for many years, recent HUD studies find that minorities are still confronted with discrimination in purchasing homes and in leasing rental units. As each April is celebrated with observances of passage of the Fair Housing Act of 1968, it is hoped that the spirit and intention of the law will be fulfilled.

Americans with Disabilities Act

The Americans with Disabilities Act, which took effect on January 26, 1992, specifically protects the rights of individuals with disabilities. A Disability is defined in USC 42, Sec. 12101, as a physical or mental impairment that substantially limits one or more of the major life activities of a person. Individuals with AIDS, alcoholism, or mental illness are included in this category.

Under this law, individuals with disabilities cannot be denied access to public transportation, any commercial facility, or public accommodation. This act applies to all owners and operators of public accommodations and commercial facilities, regardless of the size or number of employees. It also applies to all local and state governments.

Public accommodations are defined as private businesses that affect commerce and trade, such as inns, hotels, restaurants, theaters, convention centers, bakeries, Laundromats, banks, barber shops, attorneys' offices, museums, zoos, places of education, day care centers, and health clubs. Commercial facilities are those intended for nonresidential use and affect commerce, such as factories. Real estate offices are must meet AD A requirements.

To comply with this law, public accommodations and commercial facilities are to be designed, constructed, altered to meet the accessibility standards of the new law if readily achievable. "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. Considerations in determining if the commercial facility or public accommodation can be made accessible are:

- nature and cost of the needed alteration
- overall financial resources of the facility involved
- and number of persons employed
- type of operation of the entity

Public accommodations must remove structural, architectural, and communication barriers in existing facilities if the removal is readily achievable. Examples of barriers to be removed or

alterations to be made include placing ramps, lowering telephones, making curb cuts in sidewalks and entrances, widening doors, installing grab bars in toilet stalls, and adding raised letters on elevator controls. Commercial facilities are not required to remove the barriers in existing facilities.

In the construction of new public accommodations and commercial facilities, all areas must be readily accessible and usable by individuals with disabilities as of January 26, 1993. The Americans with Disabilities Act is enforced by the US Attorney General. Punishment for violating this law includes injunctions against operation of a business, a fine up to \$50,000 for the first offense, and a fine of \$100,000 for any subsequent offense.

LOCAL FAIRHOUSING LAWS

Every local has its own fair housing laws with their own additional protected classes. Towns near colleges and universities often have matriculants (students) as a protected class. You can have them sign the same lease, do the same background checks, but you can't deny them the apartment solely on the basis that they are a students.

Some Illinois cities/towns have other lesser known protected classes, i.e., appearance or even political affiliation.

Check with your local municipality on their fair housing ordinances and their interpretations.

Most all Information Professionals come from Cook County or a collar county of Cook. Since a majority of them do business in Chicago the following pages are very important. Presented here, is a discussion of Cook County and Chicago fair housing law.

Even though you may not be doing business in these areas, you will find the discussion to be very helpful in other areas. The definitions and interpretations of the protected classes are universally the same or similar, i.e., Order of Protection, matriculants.

Check with your local municipality on their fair housing ordinances.

COOK COUNTY PROTECTED CLASSES

Cook County is the second largest county in the U.S. We be discussing additional Cook County protected classes in the next few paragraphs. So, by now you should realize everywhere you do business the local jurisdictions will most likely have different protected classes and different rules for compliance. But, the definition of the protected class will be the same or nearly the same. Check with your local municipality on their fair housing ordinances.

Cook County's discrimination law adds three additional protected classes to the Illinois Human Rights Act. The protected classes are the same eleven in the Illinois Human Rights Act plus parental status, source of income, housing status and the newest one criminal history. There are no exemptions under Cook County's discrimination law.

Housing status is a hold-over from the "discrimination in employment" section of the law. People without permanent addresses or addresses of transient hotels could not get hired, so the County made them a protected class.

Parental status includes discrimination regarding a pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery there from.

Source of income prevents discriminating against the occupation of a person, i.e. a stripper, an abortion doctor or nurse, etc. If the income is legal verifiable income, then the lessor must accept it.

Cook County has amended the Cook County Human Rights Ordinance making it a violation to discriminate against a participant in a housing choice voucher program such as Section 8. While "Source of Income" has always been a protected class under the Cook County Human Rights Ordinance, an exception existed (since 1993) that allowed lessors to refuse participants in housing choice voucher programs. But, not no more!

The Ordinance was amended in May 2013, removing any housing choice voucher program exception effective August 8, 2013. Refusing a tenant based solely on their participation in a housing choice voucher program is a violation of the Cook County Human Rights Ordinance.

It can be noted that the same protected class, "Source of Income", has existed in the City of Chicago for many years. The City of Chicago has never allowed an exemption for housing choice vouchers. Now, the Cook County ordinance will be enforced the same as Chicago.

The Cook County Human Rights Ordinance states "...any distinction, discrimination or restriction in the price, terms, conditions, privileges of any real estate transaction, including the decision to engage in or renew any real estate transaction, on the basis of any lawful discrimination" is a violation of the act. Refusing a tenant based solely on their participation in a housing choice voucher program, therefore, would be a violation of the Cook County Human Rights Ordinance.

Another more recent amendment was passed in July 2019 with an effective date of November 2019 making "criminal history" a protected class. The most recent amendment 1) prohibits housing discrimination based on an individual's criminal history and 2) require providers to perform an individualized assessment of an otherwise qualified individual's criminal conviction history prior to denying them housing.

You will find the proposed rules on criminal history on page 17. This set of rules, as of this writing, has not been passed, as of yet. They are/were expected to be passed at the Cook County Board's October 16, 2019 meeting. There provided here for guidance.

The ordinance applies to all residential property.

Home rule communities can pass their own laws regarding whether or not landlords must accept vouchers. The Illinois Constitution and the Illinois municipal code grants a municipality the power to create and enforce their own ordinances. Therefore, if a municipality's ordinance conflicts with a county ordinance, the municipal ordinance prevails.

The new county voucher protection means...

- A prospective tenant with a housing choice voucher has the right to be screened on the same basis as non-voucher prospects.
- Landlords are not required to rent to a holder of a voucher, but landlords have a legal obligation to consider their application with the same criteria as non-voucher prospects e.g., credit check, back ground check, employment history, etc

Other facts that are worth noting...

- The City of Chicago, Cook County, and five Illinois municipalities have laws protecting housing choice voucher holders from discrimination.
- The terms of the lease are determined by the landlord, not the housing authority.
- Landlords can charge whatever rent the market will bear. Rent does not have to be reduced for a voucher holder.
- Tenants must have the funds for the security deposit. The tenant can be rejected for not having the security deposit even though the monthly rent is covered by the housing choice voucher program. However, the security deposit requirement must be applied uniformly with all prospective tenants.
- If a landlord has a policy of continuing to accept rental applications until a final, signed lease is in place, a landlord may accept a non-voucher tenant during the time period that voucher program inspections are taking place.

Following are the Interpretive Rules concerning Criminal Background as a protected class in Cook County. Although it is currently a protected class only in Cook County, expect "criminal background" to be statewide soon. Each of the last several years it has been introduced in a in Springfield in a bill that

would amend the Illinois Human Rights Act adding “criminal background” as a protected class. The bills were never brought for a vote. In addition, the same efforts are taking place on the federal level. In some other states and some counties it has already been law for years. From talking with fair housing investigators in Cook County, the Cook County law has a good chance of becoming the model for the state law.

Check with your local municipality on their fair housing ordinances. Its quicker and easier to change local law, so check with your local municipalities often.

PART 700 JUST HOUSING AMENDMENT INTERPRETIVE RULES

Section 700.100 Prohibition of Discrimination

Article II of the Cook County Human Rights Ordinance (“Ordinance”) prohibits unlawful discrimination, as defined in §42-31, against a person because of any of the following: race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge, source of income, gender identity or housing status.

Additionally, any written or unwritten housing policy or practice that discriminates against applicants based on their criminal history, as defined in § 42-38(a) of the Ordinance, is a violation of the Ordinance. Any written or unwritten housing policy or practice which discriminates against applicants based on their convictions, as defined in § 42-38(a) of the Ordinance, prior to the completion of an individualized assessment violates the Ordinance.

Nothing in this section shall be interpreted as prohibiting a housing provider from denying housing to an applicant based on their criminal conviction history when required by federal or state law.

SUBPART 710 AUTHORITY AND APPLICABILITY

Section 710.100 Authority

These rules are adopted in accordance with the authority vested in the Cook County Commission on Human Rights, pursuant to § 42-34(e)(5) and §42-38(c)(5)(c) of the Ordinance, to adopt rules and regulations necessary to implement the Commission’s powers.

Section 710.110 Applicability

These rules shall go into effect on the effective date of the Just Housing Amendment (No. 19-2394) to the Ordinance and shall only apply to claims that arise out of actions that occur on or after the effective date of the amendments.

SUBPART 720 DEFINITIONS

Section 720.100 Business Day

“Business Day” means any day except any Saturday, Sunday, or any day which is a federal or State of Illinois legal holiday.

Section 720.110 Criminal Background Check

“Criminal background check,” as referenced in § 42-38(e)(2)(a), includes any report containing information about an individual’s criminal background, including but not limited to those produced by

federal, state, and local law enforcement agencies, federal and state courts or consumer reporting agencies.

Section 720.120 Demonstrable Risk

“Demonstrable risk,” as referenced in § 42-38(c)(5)(c), refers to the likelihood of harm to other residents’ personal safety and/or likelihood of serious damage to property.

Criminal convictions that are five (5) years old or older do not represent a demonstrable risk to personal safety or property, except in the following circumstances:

- (A) A current sex offender registration requirement pursuant to the Sex Offender Registration Act (or similar law in another jurisdiction).
- (B) A current child sex offender residency restriction.
- (C) A conviction or conviction history that, when analyzed by the housing provider in an Individualized Assessment, warrants denial of occupancy or continued occupancy.

Section 720.130 Individualized Assessment

“Individualized Assessment,” as referenced in § 42-38(a) means a process by which a person considers all factors relevant to an individual’s conviction history and whether that history negatively impacts the individual’s ability to fulfill the responsibility of tenancy. Factors that may be considered in performing the Individualized Assessment include, but are not limited to:

- (1) The nature and severity of the criminal offense and how recently it occurred;
- (2) The nature of the sentencing;
- (3) The number of the applicant’s criminal convictions;
- (4) The length of time that has passed since the applicant’s most recent conviction;
- (5) The age of the individual at the time the criminal offense occurred;
- (6) Evidence of rehabilitation;
- (7) The individual history as a tenant before and/or after the conviction.

Section 720.140 Relevance

“Relevance,” as referenced in § 42-38(e)(2), refers to the degree to which an individual’s conviction history makes it likely that the applicant poses a demonstrable risk to the personal safety and/or property of others.

Section 720.150 Tenant Selection Criteria

“Tenant selection criteria,” as referenced in § 42-38(e)(2)(a), means the criteria, standards and/or policies used to evaluate whether an applicant qualifies for admission to occupancy or continued residency. The criteria, standards and/or policies concerning the applicant’s conviction history shall apply only after a housing applicant has been pre-qualified. The criteria must explain how applicants’ criminal conviction history will be evaluated to determine whether their conviction history poses a demonstrable risk to personal safety or property.

SUBPART 730 TENANT SCREENING PROCESS

Section 730.100 Notice of Tenant Selection Criteria and Screening Process

Before accepting an application fee, a housing provider must disclose to the applicant the following information:

- (A) The tenant selection criteria, which describes how an applicant will be evaluated to determine whether to rent or lease to the applicant;
- (B) The applicant’s right to provide evidence demonstrating inaccuracies within the applicant’s conviction history, or evidence of rehabilitation and other mitigating factors as

described in §740.100(B) below; and

(C) A copy of the Cook County Commission on Human Rights (“Commission”) interpretative rules, or a link to the Commission’s website, with the address and phone number of the Commission.

Section 730.110 Pre-Qualification

The housing provider must first determine that the applicant is qualified for admission to housing or continued occupancy.

Section 730.120 Notice of Pre-Qualification

Once a housing provider determines an applicant has satisfied the pre-qualification standards for housing, the housing provider shall notify the applicant that the first step of the screening procedure has been satisfied and notify the applicant that a criminal background check will be performed or solicited.

Section 730.130 Criminal Background Check

After a housing provider sends the notice of prequalification required by Section 730.120, a housing provider may consider information from a criminal background check on the pre-qualified applicant.

SUBPART 740 CONVICTION DISPUTE PROCEDURES

Section 740.100 General

When denying admission or continued occupancy based on criminal conviction history, a housing provider must provide the housing applicant or resident with:

(A) A copy of any criminal background check and other screening material relied upon; and
(B) A statement of the Individualized Assessment performed by the housing provider to determine that denial of admission or continued occupancy is necessary to protect against a demonstrable risk to the personal safety and/or property of others.

(C) Notice of the applicant’s right to dispute the accuracy or relevance of any conviction(s) in accordance with Section 740.110 of these rules; and

(D) A copy of these rules, or a link to the Human Right’s Commission website, with the address and phone number of the Commission.

Section 740.110 Opportunity to Dispute the Accuracy and Relevance of Convictions

(A) Once the housing provider has advised the applicant they are being denied occupancy and has delivered a copy of the denial and a copy of the criminal background check, individualized assessment and other information required by Sec. 740.100, the applicant shall have two (2) business days from the postal or electronic mail date stamp to notify the housing provider in writing of the applicant’s intent to dispute the accuracy or the relevance of the information.

(B) The applicant shall have an additional five (5) business days to produce evidence that disputes the accuracy or relevance of information contained within the criminal background check and/or individualized assessment.

Section 740.120 Dispute Procedures and Other Applicants

If a pre-qualified applicant provides notice of intent to dispute the accuracy or relevance of criminal conviction history in accordance with §740.110, the housing provider must complete the dispute process of §740.110 before extending housing to another applicant.

If a housing applicant does not provide notice of intent to dispute the accuracy or relevance of the criminal conviction history within two (2) business days, and the housing provider determines that the applicant poses a demonstrable risk, the housing provider can extend housing to another pre-qualified applicant.

SUBPART 760 NOTICE OF FINAL DECISION

Section 760.100 **Decision Deadline**

A housing provider must either approve or deny an individual's housing application within two (2) business days of receipt of information from the applicant rebutting the information contained in the criminal background check and/or individualized assessment.

Section 760.110 **Written Notice of Denial**

(A) Any denial of admission or continued occupancy based on a conviction must be in writing and must provide the applicant an explanation of why denial based on criminal conviction is necessary to protect against a demonstrable risk of harm to personal safety and/or property.

(B) The written denial must also contain a statement informing the housing applicant of their right to file a complaint with the Human Rights Commission of Cook County.

Section 760.120 **Confidentiality**

The housing provider must limit the use and distribution of information obtained in performing the applicant's criminal background check. The housing provider must keep any information gathered confidential and in keeping with the requirements of the Ordinance.

City of Chicago Protected Classes

City of Chicago also has its own discrimination law. These include the same classes as the County with the exception of housing status.

There are no exemptions under the City of Chicago's discrimination law.

Local Discrimination Laws

There are 271 suburban municipalities in the six county Chicago-metro region. Of those, 101 have passed their own fair housing ordinance. A list of those communities follows.

Check with your local municipality on their fair housing ordinances.

Local Communities with Their Own Fair Housing Ordinance

Arlington Heights	Flossmoor	Lyons
Bellwood	Ford Heights	Markham
Blue Island	Glencoe	Matteson
Bridgeview	Glenwood	Maywood
Burnham	Harvey	Merrionette Park
Calumet City	Hazel Crest	McCook
Calumet Park	Hickory Hills	Morton Grove
Chicago Heights	Hodgkins	Mount Prospect
Chicago Ridge	Hometown	Niles
Cicero	Homewood	Norridge
Country Club Hills	Justice	Northbrook
Dixmoor	LaGrange	Northfield
Dolton	Lansing	Northlake
East Hazel Crest	Lincolnwood	Oak Lawn
Evanston	Lynwood	Oak Park

Orland Hills
Orland Park
Palos Heights
Park Forest
Park Ridge
Prospect Heights
Richton Park
Riverdale
River Grove
Robbins
Rolling Meadows
Sauk Village
Schaumburg
Skokie
South Chicago Heights
South Holland
Streamwood
Thornton
Tinley Park
Wheeling
Willow Springs
Wilmette
Worth

Test Your Knowledge - T/F

1. The Civil Rights Act of 1866 made it illegal to discriminate on the basis of race.
2. The Civil Rights Act of 1866 affects real and personal property.
3. The Civil Rights Act of 1968 prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, mental and physical handicap and familial status.
4. The fair housing poster must be prominently displayed in all Managing Brokers' offices.
5. Not making listings available in an area would be an example of steering.
6. Preying on the racial fears of the inhabitants of a neighborhood is panic pedaling or block busting.
7. It is legal to advertise no pets allowed.
8. The licensee should make all the units that are available, available to a handicap tenant, not just handicap units or first floor units.
9. Redlining is refusing to make loans in an area because the area is populated by minorities.
10. The Community Reinvestment Act requires financial institutions to conduct activities and provide services to meet the credit and deposit needs of their communities.
11. The Illinois Human Rights Act prohibits discrimination because of race, color, religion, national origin, physical or mental disability, familial status, ancestry, age, sex, marital status, perceived disability, military status, unfavorable military discharge, sexual orientation, and a holder of an Order of Protection.
12. The American's With Disabilities Act specifically protects the rights of individuals with disabilities.
13. A disability is defined under the ADA as a physical or mental impairment that substantially limits one or more of the major life activities of a person.
14. Your real estate office must comply with the ADA.
15. The Cook County Human Rights Act adds three more protected classes: parental status, source of income, and housing status.
16. There are no exemptions under the Cook County or City of Chicago discrimination ordinances.
17. Housing choice vouchers are no longer an exception to "source of income" for the Cook County Human Rights ordinance.
18. The ADA affects public accommodations and commercial facilities.
19. The Fair Housing Act affects residential properties.

Answers

The answers to each of the above questions is true. This testing exercise was provided to reinforce what you read in the materials, not to cause possible confusion by presenting statements that would have been false.

FAIR HOUSING ACT

Sec. 800. [42 US. 3601 note] Short Title

This title may be cited as the "Fair Housing Act".

Sec. 801. [42 USC. 3601] Declaration of Policy

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

Sec. 802. [42 USC. 3602] Definitions

As used in this subchapter--

(a) "Secretary" means the Secretary of Housing and Urban Development.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 [of the United States Code], receivers, and fiduciaries.

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, 806, or 818 of this title.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) "Handicap" means, with respect to a person--

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 USC. 802)).

(i) "Aggrieved person" includes any person who--

(1) claims to have been injured by a discriminatory housing practice; or

(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

(j) "Complainant" means the person (including the Secretary) who files a complaint under section 810.

(k) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with--

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(l) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

(m) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(n) "Respondent" means--

(1) the person or other entity accused in a complaint of an unfair housing practice; and

(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

(o) "Prevailing party" has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 USC. 1988).

[42 USC. 3602 note] Neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

Sec. 803. [42 USC. 3603] Effective dates of certain prohibitions

(a) Subject to the provisions of subsection (b) of this section and section 807 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 804 of this title shall apply:

(1) Upon enactment of this subchapter, to--

(A) dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to April 11, 1968;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to April 11, 1968: Provided, That nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b) of this section.

(b) Nothing in section 804 of this title (other than subsection (c)) shall apply to--

(1) any single-family house sold or rented by an owner: Provided, That such private individual owner does not own more than three such single-family houses at any one time: Provided further, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further, That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 804(c) of this title; but nothing in this proviso

shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if--

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

Sec. 804. [42 USC. 3604] Discrimination in sale or rental of housing and other prohibited practices

As made applicable by section 803 of this title and except as exempted by sections 803(b) and 807 of this title, it shall be unlawful--

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

(f)

(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of--

(A) that buyer or renter,

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that buyer or renter.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of--

(A) that person; or

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that person.

(3) For purposes of this subsection, discrimination includes--

(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(B) a refusal 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; or

(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwelling in such a manner that--

(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(iii) all premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5)

(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

(D) Nothing in this title shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

(6)

(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 810(f)(3) of this Act to receive and process complaints or otherwise engage in enforcement activities under this title.

(B) Determinations by a State or a unit of general local government under paragraphs (5)(A) and (B) shall not be conclusive in enforcement proceedings under this title.

(7) As used in this subsection, the term "covered multifamily dwellings" means--

(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

(B) ground floor units in other buildings consisting of 4 or more units.

(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Sec. 805. [42 USC. 3605] Discrimination in Residential Real Estate-Related Transactions

(a) In General.--It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) Definition.--As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance--

(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(B) secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(c) Appraisal Exemption.--Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

Sec. 806. [42 USC. 3606] Discrimination in provision of brokerage services

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

Sec. 807. [42 USC. 3607] Religious organization or private club exemption

(a) Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from

giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b)

(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

(2) As used in this section "housing for older persons" means housing --

(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older; or

(C) intended and operated for occupancy by persons 55 years of age or older, and--

(i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall--

(I) provide for verification by reliable surveys and affidavits; and

(II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2)(B) or (C): Provided, That new occupants of such housing meet the age requirements of sections (2)(B) or (C); or

(B) unoccupied units: Provided, That such units are reserved for occupancy by persons who meet the age requirements of subsections (2)(B) or (C).

(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 USC. 802).

(5)

(A) A person shall not be held personally liable for monetary damages for a violation of this title if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that--

(i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and

(ii) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

Sec. 808. [42 USC. 3608] Administration

(a) Authority and responsibility

The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

(b) Assistant Secretary

The Department of Housing and Urban Development shall be provided an additional Assistant Secretary.

(c) Delegation of authority; appointment of administrative law judges; location of conciliation meetings; administrative review

The Secretary may delegate any of his functions, duties and power to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The person to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5372, and 7521 of title 5 [of the United States Code]. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(d) Cooperation of Secretary and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes

All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes.

(e) Functions of Secretary

The Secretary of Housing and Urban Development shall--

(1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;

(2) publish and disseminate reports, recommendations, and information derived from such studies, including an annual report to the Congress--

(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which--

(i) investigations are not completed as required by section 810(a)(1)(B);

(ii) determinations are not made within the time specified in section 810(g); and

(iii) hearings are not commenced or findings and conclusions are not made as required by section 812(g);

(3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices;

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter; and

(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and

Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).

(f) The provisions of law and Executive orders to which subsection (e)(6) applies are--

(1) title VI of the Civil Rights Act of 1964;

(2) title VIII of the Civil Rights Act of 1968;

(3) section 504 of the Rehabilitation Act of 1973;

(4) the Age Discrimination Act of 1975;

(5) the Equal Credit Opportunity Act;

(6) section 1978 of the Revised Statutes (42 USC. 1982);

(7) section 8(a) of the Small Business Act;

(8) section 527 of the National Housing Act;

(9) section 109 of the Housing and Community Development Act of 1974;

(10) section 3 of the Housing and Urban Development Act of 1968;

(11) Executive Orders 11063, 11246, 11625, 12250, 12259, and 12432; and

(12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.

Sec. 808a. [42 USC. 3608a] Collection of certain data

(a) In general

To assess the extent of compliance with Federal fair housing requirements (including the requirements established under title VI of Public Law 88-352 [42 USC.A. {2000d et seq.}] and title VIII of Public Law 90-284 [42 USC.A. {3601 et seq.}]), the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each collect, not less than annually, data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by such Secretary. Such data shall be collected on a building by building basis if the Secretary involved determines such collection to be appropriate.

(b) Reports to Congress

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each include in the annual report of such Secretary to the Congress a summary and evaluation of the data collected by such Secretary under subsection (a) of this section during the preceding year.

Sec. 809. [42 USC. 3609] Education and conciliation; conferences and consultations; reports

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of Title 5. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this subchapter. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

Sec. 810. [42 USC. 3610] Administrative Enforcement; Preliminary Matters

(a) Complaints and Answers. --

(1)

(A)

(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint.

(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

(B) Upon the filing of such a complaint--

(i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this title;

(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this title, together with a copy of the original complaint;

(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

(2)

(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Secretary.

(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) Investigative Report and Conciliation. --

(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this title.

(5)

(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing--

(i) the names and dates of contacts with witnesses;

(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(iii) a summary description of other pertinent records;

(iv) a summary of witness statements; and

(v) answers to interrogatories.

(B) A final report under this paragraph may be amended if additional evidence is later discovered.

(c) Failure to Comply With Conciliation Agreement. -- Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 814 for the enforcement of such agreement.

(d) Prohibitions and Requirements With Respect to Disclosure of Information. --

(1) Nothing said or done in the course of conciliation under this title may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned.

(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(e) Prompt Judicial Action. --

(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this title, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 812 of this title.

(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any respondent under section 814(a) and 814(c) or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

(f) Referral for State or Local Proceedings. --

(1) Whenever a complaint alleges a discriminatory housing practice--

(A) within the jurisdiction of a State or local public agency; and

(B) as to which such agency has been certified by the Secretary under this subsection; the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless--

(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

(3)

(A) The Secretary may certify an agency under this subsection only if the Secretary determines that--

(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

(ii) the procedures followed by such agency;

(iii) the remedies available to such agency; and

(iv) the availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this title.

(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

(4) During the period which begins on the date of the enactment of the Fair Housing Amendments Act of 1988 and ends 40 months after such date, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this title on the day before such date shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on that date. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

(g) Reasonable Cause Determination and Effect. --

(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(2)

(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 812.

(B) Such charge--

(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(ii) shall be based on the final investigative report; and

(iii) need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).

(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(h) Service of Copies of Charge. -- After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served--

(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

(2) on each aggrieved person on whose behalf the complaint was filed.

Sec. 811. [42 USC. 3611] Subpoenas; Giving of Evidence

(a) In General. -- The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this title. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

(b) Witness Fees. -- Witnesses summoned by a subpoena under this title shall be entitled to same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.

(c) Criminal Penalties. --

(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

(2) Any person who, with intent thereby to mislead another person in any proceeding under this title--

(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

Sec. 812. [42 USC. 3612] Enforcement by Secretary

(a) Election of Judicial Determination. -- When a charge is filed under section 810, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (o) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person

of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

(b) Administrative Law Judge Hearing in Absence of Election. -- If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

(c) Rights of Parties. -- At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

(d) Expedited Discovery and Hearing. --

(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

(3) The Secretary shall, not later than 180 days after the date of enactment of this subsection, issue rules to implement this subsection.

(e) Resolution of Charge. -- Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

(f) Effect of Trial of Civil Action on Administrative Proceedings. -- An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(g) Hearings, Findings and Conclusions, and Order. -- (

(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent--

(A) in an amount not exceeding \$11,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(B) in an amount not exceeding \$27,500 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

(C) in an amount not exceeding \$55,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge;

except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title.

(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)--

(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

(h) Review by Secretary; Service of Final Order. --

(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

(i) Judicial Review. --

(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

(j) Court Enforcement of Administrative Order Upon Petition by Secretary. --

(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

(k) Relief Which May Be Granted. --

(1) Upon the filing of a petition under subsection (i) or (j), the court may--

(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

(C) enforce such order to the extent that such order is affirmed or modified.

(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

(l) Enforcement Decree in Absence of Petition for Review. -- If no petition for review is filed under subsection (i) before the expiration of 45 days after the date the administrative law judge's order is entered, the administrative law judge's findings of fact and order shall be conclusive in connection with any petition for enforcement--

(1) which is filed by the Secretary under subsection (j) after the end of such day; or

(2) under subsection (m).

(m) Court Enforcement of Administrative Order Upon Petition of Any Person Entitled to Relief. -- If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

(n) Entry of Decree. -- The clerk of the court of appeals in which a petition for enforcement is filed under subsection (1) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

(o) Civil Action for Enforcement When Election Is Made for Such Civil Action. --

(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code.

(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under

section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(p) Attorney's Fees. -- In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under section 812, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5, United States Code, or by section 2412 of title 28, United States Code.

Sec. 813. [42 USC. 3613] Enforcement by Private Persons

(a) Civil Action. --

(1)

(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this title, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this title was pending with respect to a complaint or charge under this title based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 810(a) and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this title with respect to such charge.

(b) Appointment of Attorney by Court. -- Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may--

(1) appoint an attorney for such person; or

(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

(c) Relief Which May Be Granted. --

(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

(d) Effect on Certain Sales, Encumbrances, and Rentals. -- Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

(e) Intervention by Attorney General. -- Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

Sec. 814. [42 USC. 3614] Enforcement by the Attorney General

(a) Pattern or Practice Cases. -- Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

(b) On Referral of Discriminatory Housing Practice or Conciliation Agreement for Enforcement. --

(1)

(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 810(g).

(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

(2)

(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 810(c).

(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 810(c).

(c) Enforcement of Subpoenas. -- The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this title, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(d) Relief Which May Be Granted in Civil Actions Under Subsections (a) and (b). --

(1) In a civil action under subsection (a) or (b), the court--

(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title;

(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

(C) may, to vindicate the public interest, assess a civil penalty against the respondent--

(i) in an amount not exceeding \$55,000, for a first violation; and

(ii) in an amount not exceeding \$110,000, for any subsequent violation.

(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

(e) Intervention in Civil Actions. -- Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.

Sec. 814a. Incentives for Self-Testing and Self-Correction

(a) Privileged Information. --

(1) Conditions For Privilege. -- A report or result of a self-test (as that term is defined by regulation of the Secretary) shall be considered to be privileged under paragraph (2) if any person-

(A) conducts, or authorizes an independent third party to conduct, a self- test of any aspect of a residential real estate related lending transaction of that person, or any part of that transaction, in order to determine the level or effectiveness of compliance with this title by that person; and

(B) has identified any possible violation of this title by that person and has taken, or is taking, appropriate corrective action to address any such possible violation.

(2) Privileged Self-Test. -- If a person meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test-

(A) shall be privileged; and

(B) may not be obtained or used by any applicant, department, or agency in any --

(i) proceeding or civil action in which one or more violations of this title are alleged; or

(ii) examination or investigation relating to compliance with this title.

(b) Results of Self-Testing. --

(1) In General. -- No provision of this section may be construed to prevent an aggrieved person, complainant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this title is alleged, or in any examination or investigation of compliance with this title if --

(A) the person to whom the self-test relates or any person with lawful access to the report or the results --

(i) voluntarily releases or discloses all, or any part of, the report or results to the aggrieved person, complainant, department, or agency, or to the general public; or

(ii) refers to or describes the report or results as a defense to charges of violations of this title against the person to whom the self-test relates; or

(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this title for the sole purpose of determining an appropriate penalty or remedy.

(2) Disclosure for Determination of Penalty or Remedy. -- Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B) --

(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

(B) may not be used in any other action or proceeding.

(c) Adjudication. -- An aggrieved person, complainant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in --

(1) a court of competent jurisdiction; or

(2) an administrative law proceeding with appropriate jurisdiction.

(2) Regulations. --

(A) In General. -- Not later than 6 months after the date of enactment of this Act, in consultation with the Board and after providing notice and an opportunity for public comment, the Secretary of Housing and Urban Development shall prescribe final regulations to implement section 814A of the Fair Housing Act, as added by this section.

(B) Self-Test. --

(i) Definition. -- The regulations prescribed by the Secretary under subparagraph (A) shall include a definition of the term "self-test" for purposes of section 814A of the Fair Housing Act, as added by this section.

(ii) Requirement for Self-Test. -- The regulations prescribed by the Secretary under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of the compliance by a person engaged in residential real estate related lending activities with the Fair Housing Act.

(iii) Substantial Similarity to Certain Equal Credit Opportunity Act Regulations. -- The regulations prescribed under subparagraph (A) shall be substantially similar to the regulations prescribed by the Board to carry out section 704A of the Equal Credit Opportunity Act, as added by this section.

(C) Applicability. --

(1) In General. -- Except as provided in paragraph (2), the privilege provided for in section 704a of the Equal Credit Opportunity Act or section 814a of the Fair Housing Act (as those sections are added by this section) shall apply to a self-test (as that term is defined pursuant to the regulations prescribed under subsection (a)(2) or (b)(2) of this section, as appropriate) conducted before, on, or after the effective date of the regulations prescribed under subsection (a)(2) or (b)(2), as appropriate.

(2) Exception. -- The privilege referred to in paragraph (1) does not apply to such a self-test conducted before the effective date of the regulations prescribed under subsection (a) or (b), as appropriate, if --

(A) before that effective date, a complaint against the creditor or person engaged in residential real estate related lending activities (as the case may be) was --

(i) formally filed in any court of competent jurisdiction; or

(ii) the subject of an ongoing administrative law proceeding;

(B) in the case of section 704a of the Equal Credit Opportunity Act, the creditor has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section; or

(C) in the case of section 814a of the Fair Housing Act, the person engaged in residential real estate related lending activities has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section.

Sec. 815. [42 USC. 3614a] Rules to Implement Title

The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this title. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.

Sec. 816. [42 USC. 3615] Effect on State laws

Nothing in this subchapter shall be constructed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.

Sec. 817. [42 USC. 3616] Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written agreements; publication in

Federal Register

The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this subchapter. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

Sec. 818. [42 USC. 3617] Interference, coercion, or intimidation; enforcement by civil action

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 of this title.

Sec. 819. [42 USC. 3618] Authorization of appropriations

There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter.

Sec. 820. [42 USC. 3619] Separability of provisions

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Sec. 12 of 1988 Act). [42 USC. 3601 note] Disclaimer of Preemptive Effect on Other Acts

Nothing in the Fair Housing Act as amended by this Act limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended.

(Sec. 13 of 1988 Act). [42 USC. 3601 note] Effective Date and Initial Rulemaking

(a) Effective Date. -- This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) Initial Rulemaking. -- In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.

(Sec. 14 of 1988 Act). [42 USC. 3601 note] Separability of Provisions

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 901. (Title IX As Amended) [42 USC. 3631] Violations; bodily injury; death; penalties

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with--

(a) any person because of his race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin and because he is or has been selling, purchasing, renting, financing occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from--

(1) participating, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin, in any of the activities, services, organizations or facilities described in subsection(a) of this section; or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate--

shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

TITLE 28, UNITED STATES CODE, AS AMENDED

Section 2341. Definitions

As used in this chapter --

(1) "clerk" means the clerk of the court in which the petition for the review of an order, reviewable under this chapter, is filed;

(2) "petitioner" means the party or parties by whom a petition to review an order, reviewable under this chapter, is filed; and

(3) "agency" means --

(A) the Commission, when the order sought to be reviewed was entered by the Federal Communications Commission, the Federal Maritime Commission, the Interstate Commerce Commission, or the Atomic Energy Commission, as the case may be;

(B) the Secretary, when the order was entered by the Secretary of Agriculture;

(C) the Administration, when the order was entered by the Maritime Administration; and

(D) the Secretary, when the order is under section 812 of the Fair Housing Act.

Section 2342. Jurisdiction of court of appeals

The court of appeals (other than the United States Court of Appeals for the Federal Circuit) has exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of-

(1) all final orders of the Federal Communications Commission made reviewable by section 402(a) of title 47;

(2) all final orders of the Secretary of Agriculture made under chapters 9 and 20A of title 7, except orders issued under section 210(e), 217a, and 499g(a) of title 7;

(3) all rules, regulations, or final orders of-

(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, 41, or 43 of the Shipping Act, 1916 (46 USC.App. 802, 803, 808, 835, 839, and 841(a)); and

(B) the Federal Maritime Commission issued pursuant to--

(i) section 23, 25, or 43 of the Shipping Act, 1916 (46 USC.App. 822, 824, or 841a);

(ii) section 19 of the Merchant Marine Act, 1920 (46 USC.App. 876);

(iii) section 2, 3, 4, or 5 of the Intercoastal Shipping Act, 1933 (46 USC.App. 844, 845, 845a, or 845b);

(iv) section 14 or 17 of the Shipping Act of 1984 (46 USC.App. 1713 or 1716); or

(v) section 2(d) or 3(d) of the Act of November 6, 1966 (46 USC.App. 817d(d) or 817e(d));

(4) all final orders of the Atomic Energy Commission made reviewable by section 2239 of title 42;

(5) all rules, regulations, or final orders of the Interstate Commerce Commission made reviewable by section 2321 of this title and all final orders of such Commission made reviewable under section 11901(j)(2) of Title 49, United States Code; and

(6) all final orders under section 812 of the Fair Housing Act.

Jurisdiction is invoked by filing a petition as provided by section 2344 of this title