

KEY POINT REVIEW

Equal opportunity in housing is intended to create a marketplace in which persons of similar financial means have a similar range of housing choices. Equal opportunity laws apply to owners, real estate professionals, apartment management companies, real estate organizations, lending agencies, builders, and developers.

The **Civil Rights Act of 1866** prohibits all racial discrimination in real estate transactions, with no exceptions, and was upheld in *Jones v. Mayer* in 1968.

Race has been defined by the U.S. Supreme Court to include ancestral and ethnic characteristics, including certain physical, cultural, or linguistic traits that are shared by a group with a common national origin.

The **federal Fair Housing Act** is Title VIII of the **Civil Rights Act of 1968**, as amended, and prohibits discrimination in housing based on **race, color, national origin, religion, sex, familial status, or disability**. The Fair Housing Act does not prohibit discrimination based solely on a person's citizenship status. Illegal activities include steering, blockbusting, and redlining.

The **Housing and Community Development Act of 1974** added **sex** to the list of protected classes. The **Fair Housing Amendments Act of 1988** added **disability** and **familial status** to the protected classes. The Fair Housing Act is administered by HUD, which established rules and regulations to further clarify the law, and created the Equal Housing Opportunity poster.

Exemptions from the Fair Housing Act (but not the Civil Rights Act of 1866) include

- rentals in **owner-occupied buildings** with no more than four units;
- housing operated by organizations and private clubs that limit occupancy to members; and
- the sale or rental of a **single-family home** when fewer than three homes are owned by an **individual**, discriminatory advertising is not used, and a real estate professional is not involved in the transaction.

The **Housing for Older Persons Act of 1995 (HOPA)** repealed facilities and services requirements for housing intended for persons age 55 or older. Housing is **exempt** from familial status protection if it is restricted to persons **age 62** or older, or if 80% of the units are occupied by persons **age 55** or older.

Familial status extends fair housing protections to families with children, meaning a family including a woman who is pregnant or in which one or more individuals under the age of 18 live with either a parent or a guardian.

A **disability** is a physical or mental impairment that substantially limits one or more of an individual's major life activities. Reasonable modifications to property to make it usable by an individual with a disability must be allowed, but the individual must return the property to its former condition on vacating it.

The **Americans with Disabilities Act (ADA)** prohibits discrimination in employment and public accommodations. Access to facilities and services in commercial properties must be provided when **reasonably achievable** in existing buildings, with higher standards for new construction/remodeling. Exempt properties include those covered by federal fair housing laws.

HUD enforces the Fair Housing Act. A complaint must be brought within one year of the alleged act of discrimination. Within 100 days of filing a complaint that is not referred by HUD to a local enforcement agency, HUD dismisses or goes forward with a charge of illegal discrimination. Conciliation is the resolution of a complaint within 100 days of filing when a respondent promises to remedy any violation.

A complaint brought to HUD may be heard by an **administrative law judge (ALJ)**, with remedies that may include a fine or injunction. A civil action may be brought in federal court by the complainant within two years of the alleged discriminatory act. The attorney general may bring a civil action in federal court.

Complaints under the Civil Rights Act of 1866 go directly to federal court.

Real estate professionals must act legally, doing their part to avoid discriminatory practices.