

AMENDED IN ASSEMBLY MAY 24, 2021
AMENDED IN ASSEMBLY APRIL 14, 2021
AMENDED IN ASSEMBLY MARCH 4, 2021
CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 948

Introduced by Assembly Member Holden
(Principal coauthor: Assembly Member Friedman)

February 17, 2021

An act to amend Sections 11340 and 11360 of, and to add Sections 10149.1, 11310.3, and 11424 to, the Business and Professions Code, to add Sections 22348 and 50007 to the Financial Code, and to amend Section 12955 of the Government Code, relating to real estate.

LEGISLATIVE COUNSEL'S DIGEST

AB 948, as amended, Holden. Real estate licensees: Bureau of Real Estate Appraisers: disclosures: demographic information: reporting: continuing education.

Existing law, the Real Estate Law, creates the Department of Real Estate, within the Business, Consumer Services, and Housing Agency. Existing law regulates the practice of real estate by real estate brokers and real estate salespersons.

This bill, after July 1, 2022, would require that every contract for the sale of real property contain a notice stating that ~~the buyer is entitled to an unbiased appraisal of the property, and that an appraisal is required to be objective~~ *any appraisal of the property is required to be unbiased, objective*, and not influenced by improper or illegal considerations. The bill would require the notice to include information regarding reporting biased appraisals to the financial institution or mortgage broker that

hired the appraiser or the Bureau of Real Estate Appraisers. The bill would also require the notice to be delivered by the entity making a residential mortgage loan or refinancing a residential mortgage loan either prior to, or with, the good faith estimate or the mortgage loan disclosure statement, and make conforming changes with regard to certain of those entities.

Existing law, the Real Estate Appraisers' Licensing and Certification Law, creates a Bureau of Real Estate Appraisers within the Department of Consumer Affairs to administer and enforce that law. Existing law requires the protection of the public to be the highest priority for the bureau in exercising its licensing, regulatory, and disciplinary functions.

This bill, among other things, would require the bureau to place on an existing complaint form, ~~a place for property owners or their authorized representative to voluntarily provide demographic information.~~ *a check box asking if the complainant believes that the opinion of the value of the real estate is below market value. The bill would also require the bureau to collect specified demographic information, voluntarily provided, regarding sellers, those seeking to refinance, buyers, or an authorized representative in real estate transactions making a complaint.* The bill would require the bureau to compile ~~specified demographic information regarding sellers in real estate transactions and homeowners that file complaints based on low appraisals~~ *the collected demographic information* and report that information to the Legislature on or before July 1, 2024.

This bill would prohibit a licensee from basing their appraisal of the market value of a property on the basis of race, color, religion, gender, gender expression, age, national origin, disability, marital status, sexual orientation, familial status, employment status, or military status of either the present or prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property, or on any other basis prohibited by the federal Fair Housing Act.

Existing law requires the Chief of the Bureau of Real Estate Appraisers to adopt regulations governing the process and procedures for applying for a license, including education and experience equivalency, and for renewal of a license, including, but not limited to, continuing education requirements on a 4-year cycle.

This bill would require, beginning January 1, 2023, an applicant to complete at least one hour of instruction in cultural ~~competency.~~ *competency*, as defined. The bill, as part of the continuing education

requirement in order to renew a license or restore a license to active status, would require *for each licensee renewing on or after January 1, 2023*, at least 2 hours of elimination of bias training. Beginning January 1, 2023, a licensee would be required to complete at least one hour of instruction in cultural competency every 4 years.

Existing law, the California Fair Employment and Housing Act, prohibits housing discrimination, including discrimination through public or private land use practices, decisions, or authorizations, and based on specified personal characteristics. Existing law makes it unlawful for any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of specified personal characteristics.

This bill would make it unlawful for any person or other entity whose business includes performing appraisals of residential real property to discriminate against any person in making available those services, or in the performance of those services, because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, source of income, disability, genetic information, veteran or military status, or national origin.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 Fair Appraisal Act.

3 SEC. 2. Section 10149.1 is added to the Business and
4 Professions Code, to read:

5 10149.1. (a) After July 1, 2022, every contract for the sale of
6 real property shall contain, in no less than 8-point type, the
7 following notice:

8 ~~“The buyer is entitled to an unbiased appraisal of the property.~~
9 ~~An appraisal is required to be objective—~~*Any appraisal of the*
10 *property is required to be unbiased, objective,* and not influenced
11 by improper or illegal considerations, including, but not limited
12 to, any of the following: race, color, religion (including religious
13 dress, grooming practices, or both), gender (including, but not
14 limited to, pregnancy, childbirth, breastfeeding, and related
15 conditions, and gender identity and gender expression), sexual

1 orientation, marital status, medical condition, military or veteran
 2 status, national origin (including language use and possession of
 3 a driver’s license issued to persons unable to provide their presence
 4 in the United States is authorized under federal law), ancestry,
 5 disability (mental and physical, including, but not limited to,
 6 HIV/AIDS status, cancer diagnosis, and genetic characteristics),
 7 genetic information, or age. If a buyer or seller believes that the
 8 appraisal has been influenced by any of the above factors, the seller
 9 or buyer can report this information to the lender or mortgage
 10 broker that retained the appraiser and may also file a complaint
 11 with the Bureau of Real Estate Appraisers at
 12 ~~https://www.dea.ca.gov/consumers/complaints/rea.shtml~~ or call
 13 ~~(916) 552-9020~~ *https://www.brea.ca.gov/complaint/ or call (916)*
 14 *552-9000 for further information on how to file a complaint.”*

15 (b) The notice described in subdivision (a) shall also be delivered
 16 by the entity, or a person acting under the authority of the entity’s
 17 license, making a residential mortgage loan or refinancing a
 18 residential mortgage loan, including, but not limited to, a mortgage
 19 broker, a financial institution loan officer, a mortgage loan
 20 originator, a lender licensed under the California Finance Law
 21 (Division 9 (commencing with Section 22000) of the Financial
 22 Code), and a licensee licensed under the California Residential
 23 Mortgage Lending Act (Division 20 (commencing with Section
 24 50000) of the Financial Code), either prior to, or with, the good
 25 faith estimate as required by the federal Truth in Lending Act, as
 26 amended (15 U.S.C. Sec. 1601 et seq.), or the mortgage loan
 27 disclosure statement as required pursuant to Section 10240.

28 (c) The provisions of Section 10185 do not apply to this section.

29 SEC. 3. Section 11310.3 is added to the Business and
 30 Professions Code, to read:

31 11310.3. (a) It is the intent of the Legislature, in enacting this
 32 section, to ensure that no one is discriminated against during the
 33 appraisal process of a real estate transaction.

34 (b) The bureau, on its existing complaint form, shall create a
 35 ~~place to check box asking if the complainant believes the opinion~~
 36 ~~of the value of the real estate is below the market value. The bureau~~
 37 ~~shall collect demographic information regarding~~ *sellers,*
 38 *those seeking to refinance, buyers, or a representative authorized*
 39 ~~in real estate transactions, transactions making a complaint,~~
 40 including, but not limited to, their ~~age, gender, race, and ethnicity.~~

1 *protected class as identified in Section 10149.1. This information*
2 *shall be provided on a voluntary basis by the seller or by a*
3 *representative authorized by the seller. sellers, those seeking to*
4 *refinance, the buyers, or by a representative authorized in real*
5 *estate transactions. The information may include a contact phone*
6 *number, email address if available, and home address of the*
7 *complainant.*

8 (c) ~~The bureau shall compile data on the race or other protected~~
9 ~~class of the homeowners that file complaints based on low~~
10 ~~appraisals.~~ *protected class of the sellers, those seeking to refinance,*
11 *the buyers, or an authorized representative who believes the*
12 *opinion of the value of the real estate is below the market value.*
13 *The bureau complaint form shall have check boxes or a drop down*
14 *menu, if on an internet website, for the complainant to select their*
15 *protected class.*

16 (d) *The bureau shall confirm that the complainant is the seller,*
17 *someone seeking to refinance, the buyer, or a representative*
18 *authorized in real estate transactions by the contact information*
19 *provided in subdivision (b). An authorized representative shall*
20 *provide a contact phone number, email address if available, and*
21 *home address of the person that provided the authorization.*

22 ~~(d)~~

23 (e) (1) *On or before July 1, 2024, the bureau shall report to the*
24 *Legislature in the aggregate the information collected and compiled*
25 *pursuant to subdivisions (b) and (c).*

26 (2) *A report submitted pursuant to this subdivision shall be*
27 *submitted in compliance with Section 9795 of the Government*
28 *Code.*

29 SEC. 4. *Section 11340 of the Business and Professions Code*
30 *is amended to read:*

31 11340. *The director shall adopt regulations governing the*
32 *process and the procedure of applying for a license that shall*
33 *include, but not be limited to, necessary experience or education,*
34 *equivalency, and minimum requirements of the Appraisal*
35 *Foundation, if any.*

36 (a) *For purposes of the educational background requirements*
37 *established under this section, the director shall do both of the*
38 *following:*

39 (1) *Grant credits for any courses taken on real estate appraisal*
40 *ethics or practices pursuant to Section 10153.2, or that are deemed*

1 by the director to meet standards established pursuant to this part
2 and federal law.

3 (2) Require the completion of a course on state and federal laws
4 regulating the appraisal profession, as approved by the bureau
5 every two years. The course shall include an examination that
6 requires an applicant to demonstrate the applicant's knowledge of
7 those laws.

8 (b) For the purpose of implementing and applying this section,
9 the director shall prescribe by regulation "equivalent courses" and
10 "equivalent experience." The experience of employees of an
11 assessor's office or of the State Board of Equalization in setting
12 forth opinions of value of real property for tax purposes shall be
13 deemed equivalent to experience in federally related real estate
14 appraisal activity. Notwithstanding any other law, a holder of a
15 valid real estate broker license shall be deemed to have completed
16 appraisal license application experience requirements upon proof
17 that the applicant has accumulated 1,000 hours of experience in
18 the valuation of real property.

19 (c) The director shall adopt regulations for licensure that shall
20 meet, at a minimum, the requirements and standards established
21 by the Appraisal Foundation and the federal financial institutions
22 regulatory agencies acting pursuant to Section 1112 of the Financial
23 Institutions Reform Recovery and Enforcement Act of 1989
24 (FIRREA) (Public Law 101-73). The director shall, by regulation,
25 require the application for a real estate appraiser license to include
26 the applicant's social security number or individual taxpayer
27 identification number.

28 (d) In evaluating the experience of any applicant for a license,
29 regardless of the number of hours required of that applicant, the
30 director shall apply the same standards to the experience of all
31 applicants.

32 (e) (1) Beginning January 1, 2023, in addition to the
33 requirements set forth in this section, an applicant for licensure
34 shall complete at least one hour of instruction in cultural
35 competency.

36 (2) For purposes of this section, "cultural competency" means
37 understanding and applying cultural and ethnic data to the process
38 of care that includes, but is not limited to, information on the
39 appropriate treatment of, and provision of care to, the lesbian, gay,

1 bisexual, transgender, and intersex communities, ethnic
2 communities, and religious communities.

3 (f) No license shall be issued to an applicant who is less than
4 18 years of age.

5 (g) The cost of any educational course required by this section
6 shall not be borne by any client served by a licensee.

7 SEC. 5. Section 11360 of the Business and Professions Code
8 is amended to read:

9 11360. (a) The director shall adopt regulations governing the
10 process and procedures for renewal of a license or restoration of
11 a license to active status that shall include, but not be limited to,
12 continuing education requirements, which shall be reported on the
13 basis of a four-year continuing education cycle, ~~and~~ *and, for each*
14 *licensee renewing on or after January 1, 2023*, include at least two
15 hours of elimination of bias training, either individually or as part
16 of a broader course.

17 (b) An applicant for renewal of a license shall be required to
18 demonstrate the applicant’s continuing fitness to hold a license
19 prior to its renewal. Applicants shall also fulfill continuing
20 education requirements established pursuant to this section and
21 shall be required to take a minimum of four hours of federal and
22 California appraisal related statutory and regulatory law every four
23 years.

24 (c) Beginning January 1, 2023, as part of the continuing
25 education required by this section, a licensee shall complete at
26 least one hour of instruction in cultural competency every four
27 years.

28 (d) The cost of any educational course required by this section
29 shall not be borne by any client served by a licensee.

30 (e) For purposes of this section, “cultural competency” means
31 understanding and applying cultural and ethnic data to the process
32 of care that includes, but is not limited to, information on the
33 appropriate treatment of, and provision of care to, the lesbian, gay,
34 bisexual, transgender, and intersex communities, ethnic
35 communities, and religious communities.

36 SEC. 6. Section 11424 is added to the Business and Professions
37 Code, to read:

38 11424. (a) Licensees shall not base, either partially or
39 completely, their analysis or opinion of market value on the basis
40 of race, color, religion (creed), gender, gender expression, age,

1 national origin (ancestry), disability, marital status, sexual
2 orientation, familial status, employment status, or military status
3 of either the present or prospective owners or occupants of the
4 subject property, or of the present owners or occupants of the
5 properties in the vicinity of the subject property, or on any other
6 basis prohibited by the federal Fair Housing Act.

7 (b) The provisions of Section 10185 do not apply to this section.

8 SEC. 7. Section 22348 is added to the Financial Code, to read:

9 22348. (a) Each licensed finance lender shall deliver, or cause
10 to be delivered, to the borrower the notice described in subdivision
11 (a) of Section 10419.1 of the Business and Professions Code either
12 prior to, or with, the good faith estimate as required by the federal
13 Truth in Lending Act, as amended (15 U.S.C. Sec. 1601 et seq.).

14 (b) The provisions of Section 22753 do not apply to this section.

15 SEC. 8. Section 50007 is added to the Financial Code, to read:

16 50007. (a) Each licensee shall deliver, or cause to be delivered,
17 to the borrower the notice described in subdivision (a) of Section
18 10419.1 of the Business and Professions Code prior to, or with,
19 the good faith estimate as required by the federal Truth in Lending
20 Act, as amended (15 U.S.C. Sec. 1601 et seq.).

21 (b) The provisions of Section 50500 do not apply to this section.

22 SEC. 9. Section 12955 of the Government Code is amended
23 to read:

24 12955. It shall be unlawful:

25 (a) For the owner of any housing accommodation to discriminate
26 against or harass any person because of the race, color, religion,
27 sex, gender, gender identity, gender expression, sexual orientation,
28 marital status, national origin, ancestry, familial status, source of
29 income, disability, veteran or military status, or genetic information
30 of that person.

31 (b) For the owner of any housing accommodation to make or
32 to cause to be made any written or oral inquiry concerning the
33 race, color, religion, sex, gender, gender identity, gender
34 expression, sexual orientation, marital status, national origin,
35 ancestry, familial status, disability, veteran or military status, or
36 genetic information of any person seeking to purchase, rent, or
37 lease any housing accommodation.

38 (c) For any person to make, print, or publish, or cause to be
39 made, printed, or published any notice, statement, or advertisement,
40 with respect to the sale or rental of a housing accommodation that

1 indicates any preference, limitation, or discrimination based on
2 race, color, religion, sex, gender, gender identity, gender
3 expression, sexual orientation, marital status, national origin,
4 ancestry, familial status, source of income, disability, veteran or
5 military status, or genetic information or an intention to make that
6 preference, limitation, or discrimination.

7 (d) For any person subject to the provisions of Section 51 of
8 the Civil Code, as that section applies to housing accommodations,
9 to discriminate against any person on the basis of sex, gender,
10 gender identity, gender expression, sexual orientation, color, race,
11 religion, ancestry, national origin, familial status, marital status,
12 disability, genetic information, source of income, veteran or
13 military status, or on any other basis prohibited by that section.
14 Selection preferences based on age, imposed in connection with
15 a federally approved housing program, do not constitute age
16 discrimination in housing.

17 (e) For any person, bank, mortgage company, or other financial
18 institution that provides financial assistance for the purchase,
19 refinance, organization, or construction of any housing
20 accommodation to discriminate against any person or group of
21 persons because of the race, color, religion, sex, gender, gender
22 identity, gender expression, sexual orientation, marital status,
23 national origin, ancestry, familial status, source of income,
24 disability, veteran or military status, or genetic information in the
25 terms, conditions, or privileges relating to the obtaining or use of
26 that financial assistance.

27 (f) For any owner of housing accommodations to harass, evict,
28 or otherwise discriminate against any person in the sale or rental
29 of housing accommodations when the owner's dominant purpose
30 is retaliation against a person who has opposed practices unlawful
31 under this section, informed law enforcement agencies of practices
32 believed unlawful under this section, has testified or assisted in
33 any proceeding under this part, or has aided or encouraged a person
34 to exercise or enjoy the rights secured by this part. Nothing herein
35 is intended to cause or permit the delay of an unlawful detainer
36 action.

37 (g) For any person to aid, abet, incite, compel, or coerce the
38 doing of any of the acts or practices declared unlawful in this
39 section, or to attempt to do so.

1 (h) For any person, for profit, to induce any person to sell or
2 rent any dwelling by representations regarding the entry or
3 prospective entry into the neighborhood of a person or persons of
4 a particular race, color, religion, sex, gender, gender identity,
5 gender expression, sexual orientation, marital status, ancestry,
6 disability, genetic information, source of income, familial status,
7 veteran or military status, or national origin.

8 (i) (1) For any person or other organization or entity whose
9 business involves real estate-related transactions to discriminate
10 against any person in making available a transaction, or in the
11 terms and conditions of a transaction, because of race, color,
12 religion, sex, gender, gender identity, gender expression, sexual
13 orientation, marital status, national origin, ancestry, source of
14 income, familial status, disability, veteran or military status, or
15 genetic information.

16 (2) For any person or other entity whose business includes
17 performing appraisals, as defined in subdivision (b) of Section
18 11302 of the Business and Professions Code, of residential real
19 property to discriminate against any person in making available
20 those services, or in the performance of those services, because of
21 race, color, religion, sex, gender, gender identity, gender
22 expression, sexual orientation, familial status, source of income,
23 disability, genetic information, veteran or military status, or
24 national origin.

25 (j) To deny a person access to, or membership or participation
26 in, a multiple listing service, real estate brokerage organization,
27 or other service because of race, color, religion, sex, gender, gender
28 identity, gender expression, sexual orientation, marital status,
29 ancestry, disability, genetic information, familial status, source of
30 income, veteran or military status, or national origin.

31 (k) To otherwise make unavailable or deny a dwelling based
32 on discrimination because of race, color, religion, sex, gender,
33 gender identity, gender expression, sexual orientation, familial
34 status, source of income, disability, genetic information, veteran
35 or military status, or national origin.

36 (l) To discriminate through public or private land use practices,
37 decisions, and authorizations because of race, color, religion, sex,
38 gender, gender identity, gender expression, sexual orientation,
39 familial status, marital status, disability, genetic information,
40 national origin, source of income, veteran or military status, or

1 ancestry. Discrimination includes, but is not limited to, restrictive
2 covenants, zoning laws, denials of use permits, and other actions
3 authorized under the Planning and Zoning Law (Title 7
4 (commencing with Section 65000)), that make housing
5 opportunities unavailable.

6 Discrimination under this subdivision also includes the existence
7 of a restrictive covenant, regardless of whether accompanied by a
8 statement that the restrictive covenant is repealed or void.

9 (m) As used in this section, “race, color, religion, sex, gender,
10 gender identity, gender expression, sexual orientation, marital
11 status, national origin, ancestry, familial status, source of income,
12 disability, veteran or military status, or genetic information,”
13 includes a perception that the person has any of those
14 characteristics or that the person is associated with a person who
15 has, or is perceived to have, any of those characteristics.

16 (n) To use a financial or income standard in the rental of housing
17 that fails to account for the aggregate income of persons residing
18 together or proposing to reside together on the same basis as the
19 aggregate income of married persons residing together or proposing
20 to reside together.

21 (o) In instances where there is a government rent subsidy, to
22 use a financial or income standard in assessing eligibility for the
23 rental of housing that is not based on the portion of the rent to be
24 paid by the tenant.

25 (p) (1) For the purposes of this section, “source of income”
26 means lawful, verifiable income paid directly to a tenant, or to a
27 representative of a tenant, or paid to a housing owner or landlord
28 on behalf of a tenant, including federal, state, or local public
29 assistance, and federal, state, or local housing subsidies, including,
30 but not limited to, federal housing assistance vouchers issued under
31 Section 8 of the United States Housing Act of 1937 (42 U.S.C.
32 Sec. 1437f). “Source of income” includes a federal Department of
33 Housing and Urban Development Veterans Affairs Supportive
34 Housing voucher. For the purposes of this section, a housing owner
35 or landlord is not considered a representative of a tenant unless
36 the source of income is a federal Department of Housing and Urban
37 Development Veterans Affairs Supportive Housing voucher.

- 1 (2) For the purposes of this section, it shall not constitute
- 2 discrimination based on source of income to make a written or
- 3 oral inquiry concerning the level or source of income.

O