

AMENDED IN ASSEMBLY MAY 27, 2021

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 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 first lien purchase money loan secured by residential mortgage loan real property containing no more than 4 dwelling units~~ either prior to, or with, the ~~good faith loan estimate or the mortgage loan disclosure statement, and make conforming changes with regard to certain of those entities.~~ *statement.*

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,~~ *form* 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 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, 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 “Any appraisal of the property is required to be unbiased,
9 objective, and not influenced by improper or illegal considerations,
10 including, but not limited to, any of the following: race, color,
11 religion (including religious dress, grooming practices, or both),
12 gender (including, but not limited to, pregnancy, childbirth,
13 breastfeeding, and related conditions, and gender identity and
14 gender expression), sexual orientation, marital status, medical
15 condition, military or veteran status, national origin (including
16 language use and possession of a driver’s license issued to persons
17 unable to provide their presence in the United States is authorized

1 under federal law), ancestry, disability (mental and physical,
 2 including, but not limited to, HIV/AIDS status, cancer diagnosis,
 3 and genetic characteristics), genetic information, or age. If a buyer
 4 or seller believes that the appraisal has been influenced by any of
 5 the above factors, the seller or buyer can report this information
 6 to the lender or mortgage broker that retained the appraiser and
 7 may also file a complaint with the Bureau of Real Estate Appraisers
 8 at ~~_____~~ <https://www.brea.ca.gov/complaint/>
 9 <https://www2.brea.ca.gov/complaint/> or call (916) 552-9000 for
 10 further information on how to file a complaint.”

11 (b) The notice described in subdivision (a) shall also be delivered
 12 by the entity, or a person acting under the authority of the entity’s
 13 license, ~~making a residential mortgage loan or refinancing a first~~
 14 ~~lien purchase money loan secured by residential mortgage loan,~~
 15 ~~real property containing no more than four dwelling units,~~
 16 including, but not limited to, a mortgage broker, a financial
 17 ~~institution loan officer, institution,~~ a mortgage loan originator, a
 18 lender licensed under the California Finance Law (Division 9
 19 (commencing with Section 22000) of the Financial Code), and a
 20 licensee licensed under the California Residential Mortgage
 21 Lending Act (Division 20 (commencing with Section 50000) of
 22 the Financial Code), either prior to, or with, the ~~good faith loan~~
 23 estimate as required by the federal Truth in Lending Act, as
 24 amended (15 U.S.C. Sec. 1601 et seq.), or the mortgage loan
 25 disclosure statement as required pursuant to Section 10240. *The*
 26 *notice described in subdivision (a) may be included as part of the*
 27 *disclosure required under Section 1002.14(a)(2) of the federal*
 28 *Equal Credit Opportunity Act (Regulation B) (12 C.F.R. Sec. 1002*
 29 *et seq.).*

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

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

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

36 (b) The bureau, on its existing complaint form, shall create a
 37 check box asking if the complainant believes the opinion of the
 38 value of the real estate is below the market value. The bureau shall
 39 collect demographic information regarding sellers, those seeking
 40 to refinance, buyers, or a representative authorized in real estate

1 transactions making a complaint, including, but not limited to,
2 their protected class as identified in Section 10149.1. This
3 information shall be provided on a voluntary basis by the sellers,
4 those seeking to refinance, the buyers, or by a representative
5 authorized in real estate transactions. The information may include
6 a contact ~~phone~~ *telephone* number, email address if available, and
7 home address of the complainant.

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

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

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

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

27 SEC. 4. Section 11340 of the Business and Professions Code
28 is amended to read:

29 11340. The director shall adopt regulations governing the
30 process and the procedure of applying for a license that shall
31 include, but not be limited to, necessary experience or education,
32 equivalency, and minimum requirements of the Appraisal
33 Foundation, if any.

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

37 (1) Grant credits for any courses taken on real estate appraisal
38 ethics or practices pursuant to Section 10153.2, or that are deemed
39 by the director to meet standards established pursuant to this part
40 and federal law.

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

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

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

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

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

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

1 (f) No license shall be issued to an applicant who is less than
2 18 years of age.

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

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

7 11360. (a) The director shall adopt regulations governing the
8 process and procedures for renewal of a license or restoration of
9 a license to active status that shall include, but not be limited to,
10 continuing education requirements, which shall be reported on the
11 basis of a four-year continuing education cycle, and, for each
12 licensee renewing on or after January 1, 2023, include at least two
13 hours of elimination of bias training, either individually or as part
14 of a broader course.

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

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

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

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

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

36 11424. (a) Licensees shall not base, either partially or
37 completely, their analysis or opinion of market value on the basis
38 of race, color, religion (creed), gender, gender expression, age,
39 national origin (ancestry), disability, marital status, sexual
40 orientation, familial status, employment status, or military status

1 of either the present or prospective owners or occupants of the
2 subject property, or of the present owners or occupants of the
3 properties in the vicinity of the subject property, or on any other
4 basis prohibited by the federal Fair Housing Act.

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

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

7 ~~22348. (a) Each licensed finance lender shall deliver, or cause
8 to be delivered, to the borrower the notice described in subdivision
9 (a) of Section 10419.1 of the Business and Professions Code either
10 prior to, or with, the good faith estimate as required by the federal
11 Truth in Lending Act, as amended (15 U.S.C. Sec. 1601 et seq.):~~

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

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

14 ~~50007. (a) Each licensee shall deliver, or cause to be delivered,
15 to the borrower the notice described in subdivision (a) of Section
16 10419.1 of the Business and Professions Code prior to, or with,
17 the good faith estimate as required by the federal Truth in Lending
18 Act, as amended (15 U.S.C. Sec. 1601 et seq.):~~

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

20 ~~SEC. 9:~~

21 ~~SEC. 7. Section 12955 of the Government Code is amended
22 to read:~~

23 ~~12955. It shall be unlawful:~~

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

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

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

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

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

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

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

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

39 (h) For any person, for profit, to induce any person to sell or
40 rent any dwelling by representations regarding the entry or

1 prospective entry into the neighborhood of a person or persons of
 2 a particular race, color, religion, sex, gender, gender identity,
 3 gender expression, sexual orientation, marital status, ancestry,
 4 disability, genetic information, source of income, familial status,
 5 veteran or military status, or national origin.

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

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

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

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

34 (l) To discriminate through public or private land use practices,
 35 decisions, and authorizations because of race, color, religion, sex,
 36 gender, gender identity, gender expression, sexual orientation,
 37 familial status, marital status, disability, genetic information,
 38 national origin, source of income, veteran or military status, or
 39 ancestry. Discrimination includes, but is not limited to, restrictive
 40 covenants, zoning laws, denials of use permits, and other actions

1 authorized under the Planning and Zoning Law (Title 7
2 (commencing with Section 65000)), that make housing
3 opportunities unavailable.

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

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

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

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

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

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

O