

APPENDIX B

State, Local, and Federal Statutes against Source-of-Income Discrimination

Below is a compilation of state, local, and federal statutes prohibiting discrimination in the housing market based on source of income. Please use the hyperlinks on this page to navigate through the document. This compilation updates research originally prepared by the National Housing Law Project and Florida Legal Services. Many thanks to both organizations for sharing their work. Thanks also to Reed Colfax for his recent article in the NIMBY Report (fall 2004) summarizing source of income discrimination law. If you discover any errors in this document or have material to add, please contact Nisha Agarwal (nagarwal@prrac.org).

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STATE

California

Title 2, §12955

It shall be unlawful:

- (a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability of that person....
- (c) For any person 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 housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.
- (d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, source of income, or on any other basis prohibited by that section.
- (e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.
- (f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.
- (g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.
- (h) For any person, for profit, 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, sexual orientation, marital status, ancestry, disability, source of income, familial status, or national origin.
- (i) 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 race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, source of income, disability, or national origin.

(l) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law..., that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) As used in this section, "race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics....

(p)(1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

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

(q) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

Connecticut

Connecticut General Statutes, §46a-64c

“It shall be a discriminatory practice in violation of this section: to refuse to sell or rent after 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 . lawful source of income.”

Definition of Source of Income: Connecticut General Statutes, §46a-63(3)

“Source of income is defined as income derived from “social security, [SSI], housing assistance, child support, alimony or public or general assistance.”

Relevant Case Law

Commission on Human Rights & Opportunities v. Sullivan Associates, 739 A.2d 238 (Conn., 1999) (upholding statute).

District of Columbia

Title 2, § 2-1402.21

1. “(a) *General.* -- It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business of any individual:

(1) To interrupt or terminate, or refuse or fail to initiate or conduct any transaction in real property; or to require different terms for such transaction; or to represent falsely that an interest in real property is not available for transaction;

(2) To include in the terms or conditions of a transaction in real property, any clause, condition or restriction;

(3) To appraise a property, refuse to lend money, guarantee a loan, purchase a loan, accept residential real property as security for a loan, accept a deed of trust or mortgage, or otherwise refuse to make funds available for the purchase, acquisition, construction, alteration, rehabilitation, repair or maintenance of real property; or impose different conditions on such financing; or refuse to provide title or other insurance relating to the ownership or use of any interest in real property;

(4) To refuse or restrict facilities, services, repairs or improvements for a tenant or lessee;

(5) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to a transaction, or proposed transaction, in real property, or financing relating thereto, which notice, statement, or advertisement unlawfully indicates or attempts unlawfully to indicate any preference, limitation, or discrimination based on race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business, of any individual;

(6) To discriminate in any financial transaction involving real property, on account of the location of residence or business (i.e. to “red-line”); or

(7) To limit 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 residential real estate, or to discriminate against any person in terms or conditions of access, membership or participation in any organization, service or facility.

(b) *Subterfuge.* -- It shall further be an unlawful discriminatory practice to do any of the above said acts for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, sexual orientation, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business of any individual.

Definition of Source of Income: D.C. Code Ann. § 1-2502

“[T]he point, the cause, or the form of the origination, or transmittal, of gains of property accruing to a person in a stated period of time; including, but not limited to, money and property secured from federal payments, court-ordered payments, bequests, annuities, life insurance policies and compensation for illness or injury, except in a case where conflict of interest may exist.”

Maine

Title 5, § 4582

It shall be unlawful housing discrimination “[f]or any person furnishing rental premises or public accommodations to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies, primarily because of such individual's status as such recipient.”

Massachusetts

Mass. G.L. Ch151B §4(10)

“It shall be an unlawful practice . For any person furnishing credit, services or rental accommodations to discriminate against any individual who is a recipient of federal, state, or local public assistance, including medical assistance, or who is a tenant receiving federal, state, or local housing subsidies, including rental assistance or rental supplements, because the individual is such a recipient, or because of any requirement of such public assistance, rental assistance, or housing subsidy program.”

Minnesota

Minnesota Human Rights Act §363A.09

Subdivision 1. Real property interest; action by owner, lessee, and others. It is an unfair discriminatory practice for an owner, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease any real property, or any agent of any of these:

(a) to refuse to sell, rent, or lease or otherwise deny to or withhold from any person or group of persons any real property because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status; or

(b) to discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status in the terms, conditions or privileges of the sale, rental or lease of any real property or in the furnishing of facilities or services in connection therewith, except that nothing in this clause shall be construed to prohibit the adoption of reasonable rules intended to protect the safety of minors in their use of the real property or any facilities or services furnished in connection therewith; or

(c) in any transaction involving real property, to print, circulate or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental or lease of real property, or make any record or inquiry in connection with the prospective purchase, rental, or lease of real property which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status, or any intent to make any such limitation, specification, or discrimination except that nothing in this clause shall be construed to prohibit the advertisement of a dwelling unit as available to adults-only if the person placing the advertisement reasonably believes that the provisions of this section prohibiting discrimination because of familial status do not apply to the dwelling unit.

Subd. 2. Real property interest; action by brokers, agents, and others. It is an unfair discriminatory practice for a real estate broker, real estate salesperson, or employee, or agent thereof:

(a) to refuse to sell, rent, or lease or to offer for sale, rental, or lease any real property to any person or group of persons or to negotiate for the sale, rental, or lease of any real property to any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status or represent that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status; or

(b) to discriminate against any person because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status in the terms, conditions or privileges of the sale, rental or lease of real property or in the furnishing of facilities or services in connection therewith; or

(c) to print, circulate, or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental, or lease of any real property or make any record or inquiry in connection with the prospective purchase, rental or lease of any real property, which expresses directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status or any intent to make any such limitation, specification, or discrimination except that nothing in this clause shall be construed to prohibit the advertisement of a dwelling unit as available to adults-only if the person placing the advertisement reasonably believes that the provisions of this section prohibiting discrimination because of familial status do not apply to the dwelling unit.

Subd. 3. Real property interest; action by financial institution. It is an unfair discriminatory practice for a person, bank, banking organization, mortgage company, insurance company, or other financial institution or lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair or maintenance of any real property or any agent or employee thereof:

(a) to discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status of the person or group of persons or of the prospective occupants or tenants of the real property in the granting, withholding, extending, modifying or renewing, or in

the rates, terms, conditions, or privileges of the financial assistance or in the extension of services in connection therewith; or

(b) to use any form of application for the financial assistance or make any record or inquiry in connection with applications for the financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status or any intent to make any such limitation, specification, or discrimination; or

(c) to discriminate against any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair, or maintain real property in a specific urban or rural area or any part thereof solely because of the social, economic, or environmental conditions of the area in the granting, withholding, extending, modifying, or renewing, or in the rates, terms, conditions, or privileges of the financial assistance or in the extension of services in connection therewith.

Subd. 4. Real property transaction. It is an unfair discriminatory practice for any real estate broker or real estate salesperson, for the purpose of inducing a real property transaction from which the person, the person's firm, or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, sex, marital status, status with regard to public assistance, sexual orientation, or disability of the owners or occupants in the block, neighborhood, or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood, or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other public facilities....

New Jersey

Title 10, §10:5-4

“All persons shall have the opportunity to obtain employment, and to obtain all the accommodations, advantages, facilities, and privileges of any place of public accommodation, publicly assisted housing accommodation, and other real property without discrimination because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex or source of lawful income used for rental or mortgage payments, subject only to conditions and limitations applicable alike to all persons. This opportunity is recognized as and declared to be a civil right.”

Title 10, §10:5-12

It shall be an unlawful employment practice, or, as the case may be, an unlawful discrimination:...

g. For any person, including but not limited to, any owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof, or any agent or employee of any of these:

(1) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of race, creed,

color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, familial status, disability, nationality, or source of lawful income used for rental or mortgage payments;

(2) To discriminate against any person or group of persons because of race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, familial status, disability, nationality or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental or lease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property, or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, affectional or sexual orientation, familial status, disability, nationality, or source of lawful income used for rental or mortgage payments, or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied by individuals of one sex to any individual of the exclusively opposite sex on the basis of sex;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c. 169 (C.10:5-5).

h. For any person, including but not limited to, any real estate broker, real estate salesperson, or employee or agent thereof:

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or

group of persons because of race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, disability or nationality;

(2) To discriminate against any person because of race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, domestic partnership status, familial status, sex, affectional or sexual orientation, disability, nationality, or source of lawful income used for rental or mortgage payments or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection h., shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied exclusively by individuals of one sex to any individual of the opposite sex on the basis of sex;

(4) To refuse to sell, rent, lease, assign, or sublease or otherwise to deny to or withhold from any person or group of persons any real property or part or portion thereof because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the real property; or

(5) To refuse to rent or lease any real property to another person because that person's family includes children under 18 years of age, or to make an agreement, rental or lease of any real property which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This paragraph shall not apply to housing for older persons as defined in subsection mm. of section 5 of P.L.1945, c. 169 (C.10:5-5)....

Relevant Case Law

Franklin Tower One v. N.M., 157 N.J. 602 (1999) (upheld the statute stating that Section 8 vouchers are covered because the statute prohibits discrimination not only against source of income but also against the source of a lawful rent payment).

North Dakota

Title 14, §14-02.4-01: State Policy Against Discrimination

“It is the policy of this state to prohibit discrimination on the basis of race, color, religion, sex, national origin, age, the presence of any mental or physical disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer; to prevent and eliminate discrimination in employment relations, public accommodations, housing, state and local government services, and credit transactions; and to deter those who aid, abet, or induce discrimination or coerce others to discriminate.”

Oklahoma

Title 25, §1452: Discriminatory Housing Practices

“A. It shall be an unlawful discriminatory housing practice for any person, or any agent or employee of such person:

... 8. To refuse to consider as a valid source of income any public assistance, alimony, or child support, awarded by a court, when that source can be verified as to its amount, length of time received, regularity, or receipt because of race, color, religion, gender, national origin, age, familial status, or handicap....”

Oregon

Title 51, §659A.421: Discrimination in selling, renting or leasing property

(1) No person shall, because of race, color, sex, marital status, source of income, familial status, religion or national origin of any person:

- (a) Refuse to sell, lease or rent any real property to a purchaser.
- (b) Expel a purchaser from any real property.
- (c) Make any distinction, discrimination or restriction against a purchaser in the price, terms, conditions or privileges relating to the sale, rental, lease or occupancy of real property or in the furnishing of any facilities or services in connection therewith.
- (d) Attempt to discourage the sale, rental or lease of any real property to a purchaser.
- (e) Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing of real property which indicates any preference, limitation, specification or discrimination based on race, color, sex, marital status, source of income, religion or national origin.
- (f) Assist, induce, incite or coerce another person to commit an act or engage in a practice that violates this subsection and subsection (3) of this section.
- (g) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of having aided or encouraged any other person in the exercise of, any right granted or protected by this section.

(2)(a) No person whose business includes engaging in residential real estate related transactions shall discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, sex, marital status, source of income, familial status, religion or national origin.

(b) As used in this subsection, "residential real estate related transaction" means any of the following:

- (A) The making or purchasing of loans or providing other financial assistance:
 - (i) For purchasing, constructing, improving, repairing or maintaining a dwelling; or
 - (ii) For securing residential real estate; or
- (B) The selling, brokering or appraising of residential real property.

(3) No real estate licensee shall accept or retain a listing of real property for sale, lease or rental with an understanding that a purchaser may be discriminated against with respect to the sale, rental or lease thereof because of race, color, sex, marital status, source of income, familial status, religion or national origin.

(4) No person shall, for profit, induce or attempt to induce any other 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, sex, marital status, source of income, familial status, religion or national origin.

(5) For purposes of subsections (1) to (4) of this section, "source of income" does not include federal rent subsidy payments under 42 U.S.C. 1437f, income from specific occupations or income derived in an illegal manner....

Utah

Utah Fair Housing Act §57-21-5

(1) It is a discriminatory housing practice to do any of the following because of a person's race, color, religion, sex, national origin, familial status, source of income, or disability:

- (a) refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental, or otherwise deny or make unavailable any dwelling from any person;
- (b) discriminate against any person in the terms, conditions, or privileges of the sale or rental of any dwelling or in providing facilities or services in connection with the dwelling; or
- (c) represent to any person that any dwelling is not available for inspection, sale, or rental when in fact the dwelling is available.

(2) It is a discriminatory housing practice to make a representation orally or in writing or make, print, circulate, publish, post, or cause to be made, printed, circulated, published, or posted any notice, statement, or advertisement, or to use any application form for the sale or rental of a dwelling, that directly or indirectly expresses any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status, source of income, or disability, or expresses any intent to make any such preference, limitation, or discrimination.

(3) It is a discriminatory housing practice to induce or attempt to induce, for profit, any person to buy, sell, or rent any dwelling by making representations about the entry or prospective entry into the neighborhood of persons of a particular race, color, religion, sex, national origin, familial status, source of income, or disability.

(4) A discriminatory housing practice includes:

- (a) a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford that person full enjoyment of the premises, except that in the case of a rental, the landlord, where it is reasonable to do so, may condition permission for a modification on the renter agreeing to restore the interior of the premises, when reasonable, 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 the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; and
- (c) in connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:
 - (i) the dwellings have at least one building entrance on an accessible route, unless it is impracticable to have one because of the terrain or unusual characteristics of the site; and
 - (ii) with respect to dwellings with a building entrance on an accessible route:
 - (A) the public use and common use portions of the dwelling are readily accessible to and usable by disabled persons;
 - (B) all the doors designed to allow passage into and within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
 - (C) all premises within these 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 the bathroom walls to allow later installation of grab bars; and
 - (IV) kitchens and bathrooms such that an individual in a wheelchair can maneuver about and use the space.

(5) This section also applies to discriminatory housing practices because of race, color, religion, sex, national origin, familial status, source of income, or disability based upon a person's association with another person.

Vermont

Title 9, §4503

(a) It shall be unlawful for any person:

- (1) To refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling or other real estate to any person because of the race, sex, sexual orientation, age, marital status, religious creed, color, national origin or handicap of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.
- (2) To discriminate against, or to harass any person in the terms, conditions or privileges of the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection therewith, because of the race, sex, sexual orientation, age, marital status, religious creed, color, national origin or handicap of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.

(3) 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 or other real estate that indicates any preference, limitation or discrimination based on race, sex, sexual orientation, age, marital status, religious creed, color, national origin or handicap of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.

(4) To represent to any person because of the race, sex, sexual orientation, age, marital status, religious creed, color, national origin or handicap of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, that any dwelling or other real estate is not available for inspection, sale or rental when the dwelling or real estate is in fact so available.

(5) To coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right granted or protected by this chapter or for having filed a charge, testified or cooperated in any investigation or enforcement action pursuant to chapter 139 or 141 of this title.

(6) To discriminate against any person in the making or purchasing of loans or providing other financial assistance for real estate related transactions or in the selling, brokering or appraising of residential real property, because of the race, sex, sexual orientation, age, marital status, religious creed, color, national origin or handicap of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.

(7) To engage in blockbusting practices, for profit, which may include inducing or attempting to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons of a particular race, sex, sexual orientation, age, marital status, religious creed, color, national origin or handicap of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.

(8) 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 any person in the terms or conditions of such access, membership, or participation, on account of race, sex, sexual orientation, age, marital status, religious creed, color, national origin or handicap of a person, or because a person is a recipient of public assistance....

Wisconsin

Wisconsin Statute, Subchapter X, §66.1011

(1) Declaration of policy. The right of all persons to have equal opportunities for housing regardless of their sex, race, color, physical condition, disability as defined in s. 106.04(1m)(g), sexual orientation as defined in s. 111.32(13m), religion, national origin, marital status, family status as defined in s. 106.04(1m)(k), lawful source of income, age or ancestry is a matter both of statewide concern under ss. 101.132 and 106.04 and also of local interest under this section and s. 66.0125. The enactment of ss. 101.132 and 106.04 by the legislature does not preempt the subject matter of equal opportunities in housing from consideration by political subdivisions, and does not exempt political subdivisions from their duty, nor deprive them of their right, to enact

ordinances which prohibit discrimination in any type of housing solely on the basis of an individual being a member of a protected class....

(2) Antidiscrimination housing ordinances. Political subdivisions may enact ordinances prohibiting discrimination in housing within their respective boundaries solely on the basis of an individual being a member of a protected class. An ordinance may be similar to ss. 101.132 and 106.04(1) to (8) or may be more inclusive in its terms or in respect to the different types of housing subject to its provisions. An ordinance establishing a forfeiture as a penalty for violation may not be for an amount that is less than the statutory forfeitures under s. 106.04. An ordinance may permit a complainant, aggrieved person or respondent to elect to remove the action to circuit court after a finding has been made that there is reasonable cause to believe that a violation of the ordinance has occurred. An ordinance may authorize the political subdivision, at any time after a complaint has been filed alleging an ordinance violation, to file a complaint in circuit court seeking a temporary injunction or restraining order pending final disposition of the complaint.

(3) Contingency restriction. No political subdivision may enact an ordinance under sub. (2) that contains a provision making its effective date or the operation of any of its provisions contingent on the enactment of an ordinance on the same or similar subject matter by one or more other political subdivisions.

Local

Cities in California

Corte Madera

City's ordinance protects existing tenants in buildings of 10 or more units from discrimination based on their Section 8 status. While the ordinance does not require these landlords to rent to a Section 8 tenant in the first place, it does require them to accept Section 8 from an existing tenant who qualifies for Section 8 after moving in.

East Palo Alto

This "urgent" ordinance prohibits any person from certain activities based on source of income. Under the ordinance, "source of income" means all lawful sources of income or rental assistance from any federal, state, local or nonprofit administered benefit or subsidy program as well as participation in rental, homeless or security deposit assistance programs or housing subsidy programs.

Los Angeles: Municipal Code § 151.04(B)(amended by Or. No. 174.501. Eff. 4/11/02)

"It shall be unlawful for any landlord to terminate or fail to renew a rental assistance contract with the Housing Authority of the City of Los Angeles (HACLA), and then demand that the tenant pay rent in excess of the tenant's portion of the rent under the rental assistance contract."

San Francisco

Article 33, Section 3304 of the San Francisco Police Code prohibits discrimination based on source of income, including rental and other related subsidies. See

<http://www.amlegal.com/all/lpext.dll?f=templates&fn=allmain-nf-contents.htm&cp=California%2FInfobase6&2.0>

Chicago

Chicago Fair Housing Ordinance §5-08-030

“It shall be an unfair practice and unlawful : A. To make any distinction, discrimination or restriction against any person in the price, terms, conditions or privileges of any kind relating to the sale, rental, lease or occupancy of any real estate used for residential purposes in the City of Chicago predicated upon the race, color, sex, age, religion, disability, , or source of income of the prospective or actual buyer or tenant thereof.”

Montgomery County, Maryland

Chapter 27, Article I of the Montgomery County Code

Makes it illegal to discriminate in the sale or rental of commercial and residential real estate on the bases of race, sex, marital status, physical or mental disability, color, religion, national origin, ancestry, presence of children, source of income, sexual orientation and age.

Federal

Low-Income Housing Tax Credit Program

26 U.S.C. § 42(h)(6)(b)(iv)

26 C.F.R. § 1.42-5(c)(1)(xi)

Mark to Market

42 U.S.C. § 1437F, Note

24 C.F.R § 401.556

Multifamily properties purchased from HUD

12 U.S.C § 1701Z–12

24 C.F.R § 290.19, 290.39

HUD Regulations and Notices

See also HUD Notice PIH 2002-15 (HA) (June 7, 2002) Reinstatement - Notice PIH 2001-2 (HAs), Prohibition of Discrimination against Families with Housing Choice Vouchers by Owners of Low-Income Housing Tax Credit and HOME Developments (This Notice reinstates Notice PIH 2001-2 (HA), same subject, indefinitely. Notice PIH 2001-2 (HA) expired January 31, 2002)

Additional Resources

The web site of the National Housing Law Project (<http://www.nhlp.org>). Click on "Section 8" and "Source of Income Discrimination Protections for Section 8 Tenant-Based Assistance in California," which contains both California and national information regarding source of income.

Beck, Paula, *Fighting Section 8 Discrimination: The Fair Housing Act's New Frontier*, 31 Harv. C.R.- C.L.L. Rev. 155, Winter 1996.

Culbreath, Adam, *Housing Discrimination Against Section 8 Families Calls for Creative Advocacy*, Vol. XX, No. 2 *Youth Law News*, March-April 1999.

Clearinghouse No. 52,327: *Smith v. Wilmette Real Estate & Mgmt Co.*, Nos. 95-H-159; 98-H-44/63 (City of Chicago Comm'n on Human Relations, Apr. 13, 1999). [Chicago Fair Housing Ordinance Prohibits Landlords from Refusing to Accept Section 8 Vouchers Because Section 8 Funding falls with in definition of "Source of Income".]

Clearinghouse No. 51,704: *Green v. Sunpointe Assocs., Ltd.*, No. C96-1542C (W.D. Wash. May 12, 1997). [Landlord's No-Section 8 Policy Has Disparate Impact, in Violation of Fair Housing Act, on African Americans, Women, and Children]