

State Fair Housing Laws and Regulations

This appendix summarizes key state laws and regulations related to mitigating housing discrimination and expanding housing choice.

California Fair Employment and Housing Act (FEHA) (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2) is the state fair housing law that prohibits those engaged in the housing business—landlords, real estate agents, home sellers, builders, mortgage lenders, and others—from discriminating against tenants or homeowners.

California law protects individuals from illegal discrimination by housing providers based on:

- Race, color
- Ancestry, national origin
- Citizenship, immigration status
- Primary language
- Age
- Religion
- Disability, mental or physical
- Sex, gender
- Gender identity, gender expression
- Marital status
- Familial status
- Source of income
- Military or veteran status

Government Code section 65008. Covers actions of a city, county, city and county, or other local government agency, and makes those actions null and void if the action denies an individual or group of individuals the enjoyment of residence, landownership, tenancy, or other land use in the state because of membership in a protected class, the method of financing, and/or the intended occupancy.

- For example, a violation under Government Code section 65008 may occur if a jurisdiction applied more scrutiny to reviewing and approving an affordable

development as compared to market-rate developments, or multifamily housing as compared to single family homes.

- Government Code section 65008, subdivision (e), authorizes preferential treatment of affordable housing

Government Code section 8899.50 requires all public agencies to administer programs and activities relating to housing and community development in a manner to affirmatively further fair housing and avoid any action that is materially inconsistent with its obligation to affirmatively further fair housing.

Government Code section 11135 et seq. requires full and equal access to all programs and activities operated, administered, or funded with financial assistance from the state, regardless of one's membership or perceived membership in a protected class.

Density Bonus Law (Gov. Code, section 65915) requires California jurisdictions to adopt ordinances that specify how density bonuses will be offered to incentivize affordable housing. The state law contains the minimum specifications for density bonuses.

Housing Accountability Act (Gov. Code, section 65589.5) prohibits local agencies from disapproving housing developments, including farmworker housing and emergency shelters, or requiring conditions that make such housing infeasible except under certain conditions specified in the law.

No-Net-Loss Law (Gov. Code, section 65863) is meant to ensure that development opportunities remain available throughout a jurisdiction's regional housing need allocation (RHNA) period, especially for low and moderate income households. It prohibits jurisdictions from lowering residential densities without substantial evidence.

Least Cost Zoning Law (Gov. Code, section 65913.1) requires jurisdictions to designate and zone sufficient vacant land for residential use with sufficient standards in relation to growth projections.

Excessive subdivision standards (Gov. Code, section 65913.2) prohibits jurisdictions from imposing design criteria that make residential development infeasible.

Limits on growth controls (Gov. Code, section 65302.8) describes how flood plains are used in comprehensive planning and zoning.

Housing Element Law (Gov. Code, section 65583, esp. subds. (c) (5), (c) (10) governs state-required housing elements.