

## WELCOME TO MARYLAND FAIR HOUSING!

1.5hr Required MD CE Course

### Introduction

In your own words, what do you think “Fair Housing” is?

### What is Fair Housing?

According to the National Association of REALTORS®, Fair Housing is the right to choose housing free from unlawful discrimination. Federal states and local fair housing laws protect people from discrimination in housing transactions such as rentals, sales, lending, and insurance.

Fair housing is the key to all people having the roof they want over their heads. It guarantees that regardless of your age, race, religion, family situation, or level of ability, you have the right to choose the housing that’s best for your needs – **with no outside preferences or stereotypes being imposed.**

### Fair Housing: Stereotypes

#### Google Definition of a ‘Stereotype’:

a widely held but fixed and oversimplified image or idea of a particular type of person or thing.

**Q: What are some common stereotypes or biases that real estate licensees might hold towards certain protected classes, and how can they work to overcome these biases?**

**A:** Real estate licensees may have biases towards protected classes such as race, gender, religion, and sexual orientation. This can manifest in a number of ways, such as assuming certain preferences or behavior based on these characteristics. To overcome these biases, it is important for licensees to actively educate themselves about fair housing laws and work to identify and challenge their own assumptions and prejudices.

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## HISTORICAL OVERVIEW

### ► Civil Rights Act of 1866 (Reconstruction Act)

Enacted April 9th, 1866, the Civil Rights Act of 1866 prohibits all racial discrimination in the sale or rental of property.

*Protected Classes: Race and Color*

### ► Fair Housing Act (Title VIII of the Civil Rights Act of 1968 as amended by Fair Housing Amendments Act)

Enacted on April 11th, 1968, and amended in 1988, the federal Fair Housing Act provides the basis for fair housing rights and enforcement throughout the United States. The Act also provides for accessibility requirements for covered multifamily housing built for first occupancy after March 13, 1991.

*Protected Classes: Race, Color, Religion, National Origin, Added in 1988; Gender, Familial Status, and Disability*

### ► Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability in programs and activities conducted by HUD or that receive financial assistance from HUD. This includes public housing authorities, government-run housing programs, public university housing, etc.

*Protected Classes: Disability*

### ► The Housing and Community Development (HCD) Act of 1974

Section 109 of the HCD Act of 1974, Title I, prohibits discrimination based on race, color, national origin, disability, age, religion, and sex within Community Development Block Grant (CDBG) programs or activities. Section 109 of Title I was amended to reflect sex as apart of the list of the protected classes. This change was made since women bared the hardship of sexual harassment and stereotyping by landlords and sellers that made it challenging for them to obtain housing.

*Protected Classes: Race, Color, Religion, National Origin, Familial Status, Disability, added: Sex and Gender*

#### Trivia Time!



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### **Why do we have to know about this?**

Knowing the federally protected classes will better help you, as a person, and as a real estate professional in assisting your clients with an **equal housing opportunity for everyone**. You will also be able to explain and educate your clients the importance of these Fair Housing protected classes and laws.

Failure to comply with the Fair Housing laws will result in civil penalties and leave a dent on your professional reputation as a licensed real estate agent.

**We will discuss further in this course how to avoid Fair Housing violations to keep you and your business in good standing.**

**Q: How can real estate licensees ensure that they are providing equal access and service to all potential clients, regardless of their background or characteristics?**

**A:** Real estate licensees can take a number of steps to ensure that they are providing equal access and service to all potential clients. These include avoiding discriminatory language or behavior, ensuring that all properties are marketed and shown fairly, and providing information and resources to all clients, regardless of their background or characteristics.

### **What not to do:**

In the Sale or Rental of Residential Real Estate, no one may take any of the following actions based on a protected class;

- ▶ Refuse to rent or sell housing.
- ▶ Refuse to negotiate
- ▶ Make housing unavailable.
- ▶ Deny any dwelling.
- ▶ Falsely deny that housing is available for inspection, sale, or rent.
- ▶ Indicate that housing is not available when, in fact, it is.
- ▶ Advertising Residential Real Estate. Make, print, publish or cause to be made, printed or published, a notice, statement, or advertisement relating to the sale or rental of housing that indicates a preference, limitation, or discrimination.
- ▶

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- ▶ Persuade or attempt to persuade
- ▶ Steer or attempt to steer
- ▶ Discriminate in the making or purchasing of loans or providing other financial assistance.
- ▶ Set different terms, conditions, or privileges for sale or rental of a dwelling.
- ▶ Provide different housing services or facilities.
- ▶ Intimidate, coerce, threaten or interfere with a person in one of the protected classes in the enjoyment of rights conferred by the Fair Housing Act.

### **Discrimination in Housing for People with Disabilities**

#### **If a person has:**

- ▶ A physical or mental disability (including hearing, mobility, and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex and mental retardation) that substantially limits one or more major life activities
- ▶ A record of such a disability or is regarded as having such a disability

#### **Housing providers may NOT:**

- ▶ Refuse to let you make reasonable modifications to your dwelling or common use areas, at your expense, if necessary, for the disabled person to use the housing. (Where reasonable, the landlord may permit changes only if you agree to restore the property to its original condition when you move.)
- ▶ Refuse to make reasonable accommodations in rules, policies, practices or services of necessary for the disabled person to use the housing.

### **Discrimination against Families with Children Under 18**

- ▶ The definition of familial status is broad, and the FHA doesn't necessarily distinguish between biological or adopted children. If a person has legal custody of children under the age of 18, they also qualify to be under the protected class of "familial status".
- ▶ This even includes persons who do not have children under 18 but expect to change that soon (pregnancy, adoption, etc.). This is a particularly important protection for prospective tenants because it means landlords can't turn them away or require them to rent a larger dwelling that's out of their price range simply because they're expecting a child or children to be living there too.

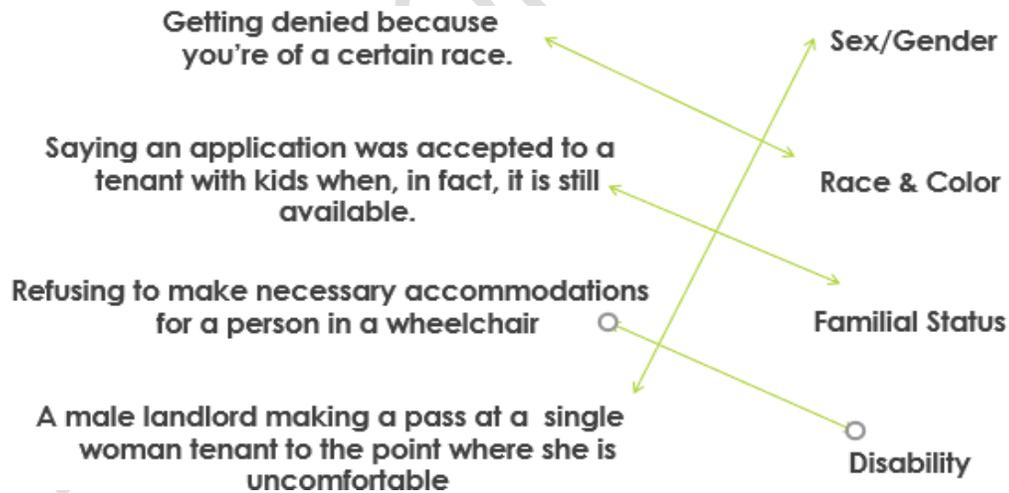
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**Possible discriminatory statements towards “familial status” to look out for;**

- ▶ The building is not safe for children.
- ▶ We take younger children, but teenagers will disturb the other tenants.
- ▶ Sure, we rent to families with kids, but we’ll need an extra security deposit.
- ▶ Yes, we’ll allow children, but we need to charge more rent for each kid.
- ▶ Only three people are allowed in the basement and first-floor units.
- ▶ My insurance company won’t let me rent second and third-floor units to anyone with small children; your children are just too young.
- ▶ Our kids' building (or family section) is full.
- ▶ This complex isn’t suitable for children, there is no playground or open space for them to play.
- ▶ There are no children here; your children won’t have anyone to play with.
- ▶ Sorry, a parent and child cannot share a bedroom.

**Match the Protected Class!**



## Exemptions

- ▶ A dwelling owned or operated by a religious organization, or by a nonprofit organization owned or controlled by a religious organization which limits or gives preference in the sale, rental, or occupancy to persons of the same religion, provided membership in the religion is not restricted on the basis of race, color or national origin.
- ▶ Lodging owned or operated by a private club as an incident to its primary purpose and not operated for a commercial purpose. Club members may be given preference, or occupancy may be limited to members, provided club membership is open to all without regard to race, color, religion, etc.
- ▶ "Mrs. Murphy's" Exemption provides that if a dwelling has four or fewer rental units and the owner lives in one of those units, that home is exempt from the FHA. Gender preference may also be acceptable if there is a shared kitchen or bathroom.
- ▶ The Fair Housing Act specifically exempts some senior housing facilities and communities from liability for familial status discrimination. Exempt senior housing facilities or communities can lawfully refuse to sell or rent dwellings to families with minor children.
- ▶ the Fair Housing Act does not protect a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.

## Protected Classes In Maryland

The courts have said that Maryland's law is "substantially equivalent" to the federal law. In two important respects, Maryland gives more protection. First, Maryland expands on the protected classes of the federal law. You cannot be discriminated against because of your marital status, gender identification, sexual orientation, or source of income.

- ▶ Marital status is defined as "the state of being single, married, separated, divorced or widowed." "Sexual orientation" means the identification of an individual as to male or female homosexuality, heterosexuality, or bisexuality. Gender identity is defined to mean the gender related identity, appearance, expression, or behavior of a person, regardless of the person's assigned sex at birth. In addition, there is a limit to the exemption for rooms or units in a dwelling in which the owner occupies a unit as his/her principal residence. In Maryland, these owners may turn down someone based on sex, sexual orientation, gender identity or marital status. However, they cannot discriminate against someone because of his/her race, color, religion, family status, national origin, disability, or source of income.
- ▶ **Read the Law:** [Md. Code, State Government, § 20-101, 20-704, 20-705](#)

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## Terms to know; Federal, State & Local

- ▶ **Blockbusting** is a method of manipulating homeowners to sell or rent their homes at a lower price by falsely convincing them that racial, religious, or other minorities are moving into their once segregated neighborhood. **It is illegal to engage in blockbusting**
- ▶ **Age:** Generally referring to adults 18 yrs & over. (*Baltimore City, Cambridge, Hagerstown, Rockville; Baltimore, Harford, Howard, Montgomery, and Prince George's Counties*)
- ▶ **Ancestry:** Line of descent. Ancestry refers to the place where your ancestors came from, and though this is different from the national origin (which refers to the place where you yourself were born), the two types of discrimination are closely tied to one another. Discrimination based on ancestry is often tied to issues of race, color, and nationality. It can take many forms, but generally is based on language, physical appearance, cultural customs or dress, or a combination of these. (*Baltimore City, Cambridge, Rockville, and Montgomery County*)
- ▶ **Creed:** A person's beliefs; also, a summary of principals or opinions to which someone professes or adheres. (*Cambridge, Rockville; Baltimore, Harford, Howard, and Montgomery Counties*)
- ▶ **Family Responsibility:** Refers to decisions based on an assumption of a person's caregiving responsibilities, either childcare or care of another family member. (*Montgomery County*)
- ▶ **Lawful Income:** See next slide, 'Source of Income'. (*City of Annapolis*)
- ▶ **Occupation:** The principal lawful activity of one's life, generally including students, welfare recipients, and retired persons. (*Harford, Howard and Prince George's Counties*)

## Terms to know

- ▶ **Personal Appearance:** *The outward appearance of any person, irrespective of sex, about hairstyle, facial hair, physical characteristics, or manner of dress. Such term shall not relate to the requirement of cleanliness, uniforms, or prescribed attire when uniformly applied for admittance to a public accommodation or to a class of employees for a customary or reasonable business. (Harford, Howard and Prince George's Counties)*
- ▶ **Political Opinion:** *The opinion of persons relating to government, the conduct of government, political parties, candidates for election, or elected office-holders. (Harford, Howard and Prince George's Counties)*
- ▶ **Presence of Children (Familial Status):** *Households that include the temporary custody or permanent occupancy of persons under the age of 18 years. (Rockville and Montgomery Co.)*
- ▶ **Source of Income:** *Any lawful source of money that is paid to or for the benefit of a renter or buyer of housing and includes grants, government assistance, alimony, child support, pensions, annuities, legal gifts, or investment earnings. (Maryland Statewide as of October 2020)*
- ▶ **Fair Housing is being taken more seriously every day. Although some may see it as a minor misconception, the other end can be seriously offended. And as professionals, we are the ones who are to know better.**

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## Application of Fair Housing

The Fair Housing Act applies to **everyone**, including those in the banking industry. Discrimination across the board is prohibited! Lenders, Insurance providers, professionals in general.

**Q: How can real estate licensees work to promote greater diversity and inclusion in the industry, and why is this important for the health and success of the real estate profession as a whole?**

**A:** Real estate licensees can work to promote greater diversity and inclusion in the industry by actively seeking out and welcoming clients from a wide range of backgrounds and characteristics, partnering with organizations that promote fair housing and diversity, and actively recruiting and promoting professionals from underrepresented groups. This is important for the health and success of the real estate profession as a whole because it helps to ensure that all clients have access to high-quality service and resources, and it helps to promote a more inclusive and equitable industry culture.

## Advertising!

Advertisements are a broad area as there are so many ways to do it.

“Advertisement” means any oral, written, or print and media advertisement, including newspaper and magazine advertisements; correspondence; mailings; brochures; business cards; for sale or for lease signs; sign riders; promotional items; newsletters; telephone directory listings; automobile signage; as well as the internet, radio, and television advertisement.

▶ Also, when advertising, you **MUST** display the Equal Housing Opportunity logo in your advertisement. Be very selective use of words, phrases, symbols, visual aids, etc. Examples include statements such as “no kids,” “Christian housing,” and “English speakers only,” all of which could be considered unlawful forms of advertising.

**Consult with your office manager or broker regarding your marketing advertisements.**

**Being fined for violating fair housing advertising laws is not fun.** So knowing how to avoid violating those laws, will save you a lot of time, energy, and money.

1. Point out and discuss fair housing language in agreements – If you see something, say something. The same applies when you are making agreements be sure they are lawful agreements. At the end of the day, as a professional, you are the one who knows better.
2. Be ready to walk away if there is an unwillingness on the part of a seller to adhere to the Fair Housing Act – Your career is worth more than that one listing who won't budge. Take a stand for what is right and walk away. Do NOT put yourself out on a limb.

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3. **Equal professional service model—Treat ALL prospective clients and customers in a consistent manner. Consistency is key**
  - ▶ Return of phone calls/information requests.
  - ▶ Timeliness
  - ▶ Amount of information, etc.
  - ▶ Buyers' selection of areas, properties to view, etc.
4. Don't encourage or discourage prospects from buying or leasing because of the racial, ethnic, or religious composition of the neighborhood.
5. Beware of exclusivity (marketing plan as mentioned in #4) This also includes criterion for determining which buyer/seller one works with (\$\$\$\$ measurement only)

**Let us discuss ways to AVOID Fair Housing Advertisement Violations**

1. **Education – Educate not only yourself but your clients and fellow colleagues. Part 109 – Fair Housing Advertising is worth reading and learning more in-depth about the specifications to NOT violate fair housing advertising laws.**
2. **Brokers detailed and disseminated policies and procedures – Follow the rules! If your office has the rule to get the approval of marketing advertisements, it's only to help you! Talk with your office manager or marketing department.**
3. **Commit the letter of law to memory – You do not need to memorize the entire Fair Housing Act. However, commit yourself to remember the basic as to if a situation occurs, you are prepared.**
4. **Market to diversity – Yes, you can customize your target audience (ex. Generations) BUT you are not to take this out of context and violate the law. Talk with your office manager or Marketing Department about developing a lawful marketing plan.**

### What are the Seven Federal Protected Classes?

1. Race
2. Color
3. Religion
4. National Origin
5. Disability
6. Familial Status
7. Sex

### What additional Protected Classes were added in Maryland? Hint: There's 4

1. Marital Status
2. Source of Income
3. Gender Identification
4. Sexual Orientation

### Credits & Sources

For further questions and concerns about Fair Housing Laws & Advertising, consult with your office manager or broker.

- <https://www.fairhousingnc.org/know-your-rights/religion/>
- <https://www.livgov.com/hscb/PublishingImages/Pages/default/FHC-Sexual-Orientation-Gender-Identity-Fact-Sheet%5B1%5D.pdf>
- <https://www.thebalancesmb.com/what-is-the-federal-fair-housing-act-2125014>
- <https://www.nar.realtor/rmoquiz2.nsf/QuizLookupFairHousing/080AA9130BB2527886257686006C0480?OpenDocument>
  - <https://www.justice.gov/crt/fair-housing-act-1#disability>
  - <https://www.peoples-law.org/laws-against-housing-discrimination>
  - <http://www.sdhda.org/property-management-docs/867-familial-status-discrimination/file.html>
  - [https://www.hud.gov/sites/documents/FHEO\\_BOOKLET\\_ENG.PDF](https://www.hud.gov/sites/documents/FHEO_BOOKLET_ENG.PDF)
    - <https://equalrightscenter.org/protected-classes/>
    - <https://www.gblafairhousing.org/marital-status/>

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- <https://www.schorrlaw.com/practice-areas/discrimination/ancestry-discrimination/>
- [https://en.wikipedia.org/wiki/LGBT\\_rights\\_in\\_Maryland#targetText=Maryland%20has%20had%20statewide%20protections,and%20gender%20identity%20since%202014.&targetText=Today%2C%20the%20state%20of%20Maryland,Marylanders%20supporting%20same-sex%20marriage.](https://en.wikipedia.org/wiki/LGBT_rights_in_Maryland#targetText=Maryland%20has%20had%20statewide%20protections,and%20gender%20identity%20since%202014.&targetText=Today%2C%20the%20state%20of%20Maryland,Marylanders%20supporting%20same-sex%20marriage.)
  - <https://www.thebalancesmb.com/blockbusting-2124950#targetText=Blockbusting%20is%20a%20method%20of,illegal%20to%20engage%20in%20blockbusting.>
  - <http://www.mdrealtor.org/Programs/Housing-Programs/Fair-Housing>
- [https://fairhousing.com/legal-research/legal-research-articles/maximizing-damages-fair-housing-organizations-under-fair#targetText=Section%203613\(c\)%20of%20the,the%20defendant's%20illegal%20housing%20practices.](https://fairhousing.com/legal-research/legal-research-articles/maximizing-damages-fair-housing-organizations-under-fair#targetText=Section%203613(c)%20of%20the,the%20defendant's%20illegal%20housing%20practices.)
  - <https://www.justice.gov/crt/equal-credit-opportunity-act-3>