

AMENDED IN SENATE MAY 19, 2010  
AMENDED IN SENATE APRIL 20, 2010  
AMENDED IN SENATE MARCH 25, 2010

**SENATE BILL**

**No. 1252**

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**Introduced by Senator Corbett**

February 19, 2010

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An act to amend Sections 51.2 and 51.10 of the Civil Code, and to amend Sections 12920, 12921, 12927, 12955, 12955.8, and 12987 of the Government Code, relating to housing discrimination.

LEGISLATIVE COUNSEL'S DIGEST

SB 1252, as amended, Corbett. Housing: discrimination.

(1) Existing law presumes that a housing development for senior citizens constructed on or after January 1, 2001, is designed to meet the physical and social needs of senior citizens for purposes of meeting existing laws regarding age discrimination in housing if the housing development includes specified elements, except housing as to which these provisions are preempted by federal law, as provided.

This bill would provide that selection preferences based on age, imposed in connection with federally approved housing programs, do not constitute age discrimination in housing.

(2) Under the California Fair Employment and Housing Act, it is unlawful 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. The act also provides that, with respect to these unlawful practices, proof of a violation of these provisions includes an act that demonstrates an intent

to, or has the effect of, discriminating against a person on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability.

This bill would specify that an act that demonstrates an intent to, or has the effect of, discriminating against a person based on his or her source of income is proof of a violation of these provisions. The bill would also define “source of income” for purposes of these provisions.

(3) Existing law requires the Fair Employment and Housing Commission, if it finds that a respondent has engaged in any unlawful practice under the California Fair Employment and Housing Act, to require the respondent to cease and desist from the practice and take actions to effectuate the purposes of the act, including, but not limited to, the payment to the complainant of a civil penalty, not to exceed \$10,000, or not to exceed \$25,000 if there had been a prior violation within 5 years preceding the filing of the complaint, or not to exceed \$50,000 if there had been 2 or more violations within 7 years preceding the filing of the complaint.

This bill would increase the payment of a civil penalty to not exceed \$16,000, or not to exceed \$37,500 if there had been a prior violation within 5 years preceding the filing of the complaint, or not to exceed \$65,000 if there had been 2 or more violations within 7 years preceding the filing of the complaint.

(4) *The bill would also include a statement of legislative intent regarding discrimination in housing.*

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. *It is the intent of the Legislature in enacting this*  
 2 *act to clarify the characteristics that may not serve as a basis for*  
 3 *discrimination in housing under the California Fair Employment*  
 4 *and Housing Act (Part 2.8 (commencing with Section 12900) of*  
 5 *Division 3 of Title 2 of the Government Code). The addition of*  
 6 *“source of income” to Sections 12920, 12921, and 12955.8 of the*  
 7 *Government Code is strictly intended to create consistency within*  
 8 *the California Fair Employment and Housing Act, and does not*  
 9 *create any substantive rights in addition to those already provided*  
 10 *for under current law.*

1 SECTION 1.

2 SEC. 2. Section 51.2 of the Civil Code is amended to read:

3 51.2. (a) Section 51 shall be construed to prohibit a business  
4 establishment from discriminating in the sale or rental of housing  
5 based upon age. Where accommodations are designed to meet the  
6 physical and social needs of senior citizens, a business  
7 establishment may establish and preserve that housing for senior  
8 citizens, pursuant to Section 51.3, except housing as to which  
9 Section 51.3 is preempted by the prohibition in the federal Fair  
10 Housing Amendments Act of 1988 (Public Law 100-430) and  
11 implementing regulations against discrimination on the basis of  
12 familial status. For accommodations constructed before February  
13 8, 1982, that meet all the criteria for senior citizen housing  
14 specified in Section 51.3, a business establishment may establish  
15 and preserve that housing development for senior citizens without  
16 the housing development being designed to meet physical and  
17 social needs of senior citizens.

18 (b) This section is intended to clarify the holdings in *Marina*  
19 *Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 72 and *O'Connor v.*  
20 *Village Green Owners Association* (1983) 33 Cal.3d 790.

21 (c) This section shall not apply to the County of Riverside.

22 (d) A housing development for senior citizens constructed on  
23 or after January 1, 2001, shall be presumed to be designed to meet  
24 the physical and social needs of senior citizens if it includes all of  
25 the following elements:

26 (1) Entryways, walkways, and hallways in the common areas  
27 of the development, and doorways and paths of access to and within  
28 the housing units, shall be as wide as required by current laws  
29 applicable to new multifamily housing construction for provision  
30 of access to persons using a standard-width wheelchair.

31 (2) Walkways and hallways in the common areas of the  
32 development shall be equipped with standard height railings or  
33 grab bars to assist persons who have difficulty with walking.

34 (3) Walkways and hallways in the common areas shall have  
35 lighting conditions which are of sufficient brightness to assist  
36 persons who have difficulty seeing.

37 (4) Access to all common areas and housing units within the  
38 development shall be provided without use of stairs, either by  
39 means of an elevator or sloped walking ramps.

1 (5) The development shall be designed to encourage social  
2 contact by providing at least one common room and at least some  
3 common open space.

4 (6) Refuse collection shall be provided in a manner that requires  
5 a minimum of physical exertion by residents.

6 (7) The development shall comply with all other applicable  
7 requirements for access and design imposed by law, including, but  
8 not limited to, the Fair Housing Act (42 U.S.C. Sec. 3601 et seq.),  
9 the Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.),  
10 and the regulations promulgated at Title 24 of the California Code  
11 of Regulations that relate to access for persons with disabilities or  
12 handicaps. Nothing in this section shall be construed to limit or  
13 reduce any right or obligation applicable under those laws.

14 (e) Selection preferences based on age, imposed in connection  
15 with a federally approved housing program, do not constitute age  
16 discrimination in housing.

17 ~~SEC. 2.~~

18 SEC. 3. Section 51.10 of the Civil Code is amended to read:

19 51.10. (a) Section 51 shall be construed to prohibit a business  
20 establishment from discriminating in the sale or rental of housing  
21 based upon age. A business establishment may establish and  
22 preserve housing for senior citizens, pursuant to Section 51.11,  
23 except housing as to which Section 51.11 is preempted by the  
24 prohibition in the federal Fair Housing Amendments Act of 1988  
25 (Public Law 100-430) and implementing regulations against  
26 discrimination on the basis of familial status.

27 (b) This section is intended to clarify the holdings in Marina  
28 Point, Ltd. v. Wolfson (1982) 30 Cal.3d 721, and O'Connor v.  
29 Village Green Owners Association (1983) 33 Cal.3d 790.

30 (c) Selection preferences based on age, imposed in connection  
31 with a federally approved housing program, do not constitute age  
32 discrimination in housing.

33 (d) This section shall only apply to the County of Riverside.

34 ~~SEC. 3.~~

35 SEC. 4. Section 12920 of the Government Code is amended  
36 to read:

37 12920. It is hereby declared as the public policy of this state  
38 that it is necessary to protect and safeguard the right and  
39 opportunity of all persons to seek, obtain, and hold employment  
40 without discrimination or abridgment on account of race, religious

1 creed, color, national origin, ancestry, physical disability, mental  
2 disability, medical condition, marital status, sex, age, or sexual  
3 orientation.

4 It is recognized that the practice of denying employment  
5 opportunity and discriminating in the terms of employment for  
6 these reasons foments domestic strife and unrest, deprives the state  
7 of the fullest utilization of its capacities for development and  
8 advancement, and substantially and adversely affects the interest  
9 of employees, employers, and the public in general.

10 Further, the practice of discrimination because of race, color,  
11 religion, sex, sexual orientation, marital status, national origin,  
12 ancestry, familial status, source of income, or disability in housing  
13 accommodations is declared to be against public policy.

14 It is the purpose of this part to provide effective remedies that  
15 will eliminate these discriminatory practices.

16 This part shall be deemed an exercise of the police power of the  
17 state for the protection of the welfare, health, and peace of the  
18 people of this state.

19 ~~SEC. 4.~~

20 *SEC. 5.* Section 12921 of the Government Code is amended  
21 to read:

22 12921. (a) The opportunity to seek, obtain and hold  
23 employment without discrimination because of race, religious  
24 creed, color, national origin, ancestry, physical disability, mental  
25 disability, medical condition, marital status, sex, age, or sexual  
26 orientation is hereby recognized as and declared to be a civil right.

27 (b) The opportunity to seek, obtain, and hold housing without  
28 discrimination because of race, color, religion, sex, sexual  
29 orientation, marital status, national origin, ancestry, familial status,  
30 source of income, disability, or any other basis prohibited by  
31 Section 51 of the Civil Code is hereby recognized as and declared  
32 to be a civil right.

33 ~~SEC. 5.~~

34 *SEC. 6.* Section 12927 of the Government Code is amended  
35 to read:

36 12927. As used in this part in connection with housing  
37 accommodations, unless a different meaning clearly appears from  
38 the context:

39 (a) “Affirmative actions” means any activity for the purpose of  
40 eliminating discrimination in housing accommodations because

1 of race, color, religion, sex, marital status, national origin, ancestry,  
2 familial status, or disability.

3 (b) “Conciliation council” means a nonprofit organization, or  
4 a city or county human relations commission, which provides  
5 education, factfinding, and mediation or conciliation services in  
6 resolution of complaints of housing discrimination.

7 (c) (1) “Discrimination” includes refusal to sell, rent, or lease  
8 housing accommodations; includes refusal to negotiate for the  
9 sale, rental, or lease of housing accommodations; includes  
10 representation that a housing accommodation is not available for  
11 inspection, sale, or rental when that housing accommodation is in  
12 fact so available; includes any other denial or withholding of  
13 housing accommodations; includes provision of inferior terms,  
14 conditions, privileges, facilities, or services in connection with  
15 those housing accommodations; includes harassment in connection  
16 with those housing accommodations; includes the cancellation or  
17 termination of a sale or rental agreement; includes the provision  
18 of segregated or separated housing accommodations; includes the  
19 refusal to permit, at the expense of the disabled person, reasonable  
20 modifications of existing premises occupied or to be occupied by  
21 the disabled person, if the modifications may be necessary to afford  
22 the disabled person full enjoyment of the premises, except that, in  
23 the case of a rental, the landlord may, where it is reasonable to do  
24 so condition permission for a modification on the renter’s agreeing  
25 to restore the interior of the premises to the condition that existed  
26 before the modification (other than for reasonable wear and tear),  
27 and includes refusal to make reasonable accommodations in rules,  
28 policies, practices, or services when these accommodations may  
29 be necessary to afford a disabled person equal opportunity to use  
30 and enjoy a dwelling.

31 (2) “Discrimination” does not include either of the following:

32 (A) Refusal to rent or lease a portion of an owner-occupied  
33 single-family house to a person as a roomer or boarder living within  
34 the household, provided that no more than one roomer or boarder  
35 is to live within the household, and the owner complies with  
36 subdivision (c) of Section 12955, which prohibits discriminatory  
37 notices, statements, and advertisements.

38 (B) Where the sharing of living areas in a single dwelling unit  
39 is involved, the use of words stating or tending to imply that the  
40 housing being advertised is available only to persons of one sex.

1 (d) “Housing accommodation” means any building, structure,  
2 or portion thereof that is occupied as, or intended for occupancy  
3 as, a residence by one or more families and any vacant land that  
4 is offered for sale or lease for the construction thereon of any  
5 building, structure, or portion thereof intended to be so occupied.

6 (e) “Owner” includes the lessee, sublessee, assignee, managing  
7 agent, real estate broker or salesperson, or any person having any  
8 legal or equitable right of ownership or possession or the right to  
9 rent or lease housing accommodations, and includes the state and  
10 any of its political subdivisions and any agency thereof.

11 (f) “Person” includes all individuals and entities that are  
12 described in Section 3602(d) of Title 42 of the United States Code,  
13 and in the definition of “owner” in subdivision (e) of this section,  
14 and all institutional third parties, including the Federal Home Loan  
15 Mortgage Corporation.

16 (g) “Aggrieved person” includes any person who claims to have  
17 been injured by a discriminatory housing practice or believes that  
18 the person will be injured by a discriminatory housing practice  
19 that is about to occur.

20 (h) “Real estate-related transactions” include any of the  
21 following:

22 (1) The making or purchasing of loans or providing other  
23 financial assistance that is for the purpose of purchasing,  
24 constructing, improving, repairing, or maintaining a dwelling, or  
25 that is secured by residential real estate.

26 (2) The selling, brokering, or appraising of residential real  
27 property.

28 (3) The use of territorial underwriting requirements, for the  
29 purpose of requiring a borrower in a specific geographic area to  
30 obtain earthquake insurance, required by an institutional third party  
31 on a loan secured by residential real property.

32 (i) “Source of income” means lawful, verifiable income paid  
33 directly to a tenant or paid to a representative of a tenant. For the  
34 purposes of this definition, a landlord is not considered a  
35 representative of a tenant.

36 ~~SEC. 6.~~

37 *SEC. 7.* Section 12955 of the Government Code is amended  
38 to read:

39 12955. It shall be unlawful:

1 (a) For the owner of any housing accommodation to discriminate  
2 against or harass any person because of the race, color, religion,  
3 sex, sexual orientation, marital status, national origin, ancestry,  
4 familial status, source of income, or disability of that person.

5 (b) For the owner of any housing accommodation to make or  
6 to cause to be made any written or oral inquiry concerning the  
7 race, color, religion, sex, sexual orientation, marital status, national  
8 origin, ancestry, familial status, or disability of any person seeking  
9 to purchase, rent or lease any housing accommodation.

10 (c) For any person to make, print, or publish, or cause to be  
11 made, printed, or published any notice, statement, or advertisement,  
12 with respect to the sale or rental of a housing accommodation that  
13 indicates any preference, limitation, or discrimination based on  
14 race, color, religion, sex, sexual orientation, marital status, national  
15 origin, ancestry, familial status, source of income, or disability or  
16 an intention to make that preference, limitation, or discrimination.

17 (d) For any person subject to the provisions of Section 51 of  
18 the Civil Code, as that section applies to housing accommodations,  
19 to discriminate against any person on the basis of sex, sexual  
20 orientation, color, race, religion, ancestry, national origin, familial  
21 status, marital status, disability, source of income, or on any other  
22 basis prohibited by that section. Selection preferences based on  
23 age, imposed in connection with a federally approved housing  
24 program, do not constitute age discrimination in housing.

25 (e) For any person, bank, mortgage company or other financial  
26 institution that provides financial assistance for the purchase,  
27 organization, or construction of any housing accommodation to  
28 discriminate against any person or group of persons because of  
29 the race, color, religion, sex, sexual orientation, marital status,  
30 national origin, ancestry, familial status, source of income, or  
31 disability in the terms, conditions, or privileges relating to the  
32 obtaining or use of that financial assistance.

33 (f) For any owner of housing accommodations to harass, evict,  
34 or otherwise discriminate against any person in the sale or rental  
35 of housing accommodations when the owner's dominant purpose  
36 is retaliation against a person who has opposed practices unlawful  
37 under this section, informed law enforcement agencies of practices  
38 believed unlawful under this section, has testified or assisted in  
39 any proceeding under this part, or has aided or encouraged a person  
40 to exercise or enjoy the rights secured by this part. Nothing herein

1 is intended to cause or permit the delay of an unlawful detainer  
2 action.

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

6 (h) For any person, for profit, to induce any person to sell or  
7 rent any dwelling by representations regarding the entry or  
8 prospective entry into the neighborhood of a person or persons of  
9 a particular race, color, religion, sex, sexual orientation, marital  
10 status, ancestry, disability, source of income, familial status, or  
11 national origin.

12 (i) For any person or other organization or entity whose business  
13 involves real estate-related transactions to discriminate against  
14 any person in making available a transaction, or in the terms and  
15 conditions of a transaction, because of race, color, religion, sex,  
16 sexual orientation, marital status, national origin, ancestry, source  
17 of income, familial status, or disability.

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

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

27 (l) To discriminate through public or private land use practices,  
28 decisions, and authorizations because of race, color, religion, sex,  
29 sexual orientation, familial status, marital status, disability, national  
30 origin, source of income, or ancestry. Discrimination includes, but  
31 is not limited to, restrictive covenants, zoning laws, denials of use  
32 permits, and other actions authorized under the Planning and  
33 Zoning Law (Title 7 (commencing with Section 65000)), that make  
34 housing opportunities unavailable.

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

39 (m) As used in this section, “race, color, religion, sex, sexual  
40 orientation, marital status, national origin, ancestry, familial status,

1 source of income, or disability” includes a perception that the  
2 person has any of those characteristics or that the person is  
3 associated with a person who has, or is perceived to have, any of  
4 those characteristics.

5 (n) To use a financial or income standard in the rental of housing  
6 that fails to account for the aggregate income of persons residing  
7 together or proposing to reside together on the same basis as the  
8 aggregate income of married persons residing together or proposing  
9 to reside together.

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

14 (p) (1) For the purposes of this section, “source of income”  
15 means lawful, verifiable income paid directly to a tenant or paid  
16 to a representative of a tenant. For the purposes of this section, a  
17 landlord is not considered a representative of a tenant.

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

21 ~~SEC. 7.~~

22 *SEC. 8.* Section 12955.8 of the Government Code is amended  
23 to read:

24 12955.8. For purposes of this article, in connection with  
25 unlawful practices:

26 (a) Proof of an intentional violation of this article includes, but  
27 is not limited to, an act or failure to act that is otherwise covered  
28 by this part, that demonstrates an intent to discriminate in any  
29 manner in violation of this part. A person intends to discriminate  
30 if race, color, religion, sex, sexual orientation, marital status,  
31 national origin, ancestry, familial status, source of income, or  
32 disability is a motivating factor in committing a discriminatory  
33 housing practice even though other factors may have also motivated  
34 the practice. An intent to discriminate may be established by direct  
35 or circumstantial evidence.

36 (b) Proof of a violation causing a discriminatory effect is shown  
37 if an act or failure to act that is otherwise covered by this part, and  
38 that has the effect, regardless of intent, of unlawfully discriminating  
39 on the basis of race, color, religion, sex, sexual orientation, marital  
40 status, national origin, ancestry, familial status, source of income,

1 or disability. A business establishment whose action or inaction  
2 has an unintended discriminatory effect shall not be considered to  
3 have committed an unlawful housing practice in violation of this  
4 part if the business establishment can establish that the action or  
5 inaction is necessary to the operation of the business and effectively  
6 carries out the significant business need it is alleged to serve. In  
7 cases that do not involve a business establishment, the person  
8 whose action or inaction has an unintended discriminatory effect  
9 shall not be considered to have committed an unlawful housing  
10 practice in violation of this part if the person can establish that the  
11 action or inaction is necessary to achieve an important purpose  
12 sufficiently compelling to override the discriminatory effect and  
13 effectively carries out the purpose it is alleged to serve.

14 (1) Any determination of a violation pursuant to this subdivision  
15 shall consider whether or not there are feasible alternatives that  
16 would equally well or better accomplish the purpose advanced  
17 with a less discriminatory effect.

18 (2) For purposes of this subdivision, the term “business  
19 establishment” shall have the same meaning as in Section 51 of  
20 the Civil Code.

21 ~~SEC. 8.~~

22 *SEC. 9.* Section 12987 of the Government Code is amended  
23 to read:

24 12987. (a) If the commission, after hearing, finds that a  
25 respondent has engaged in any unlawful practice as defined in this  
26 part, the commission shall state its findings of fact and shall issue  
27 and cause to be served on the respondent an order requiring the  
28 respondent to cease and desist from the practice and to take those  
29 actions, as, in the judgment of the commission, will effectuate the  
30 purpose of this part, including, but not limited to, any of the  
31 following:

32 (1) The sale or rental of the housing accommodation if it is still  
33 available, or the sale or rental of a like housing accommodation,  
34 if one is available, or the provision of financial assistance, terms,  
35 conditions, or privileges previously denied in violation of  
36 subdivision (f) of Section 12955 in the purchase, organization, or  
37 construction of the housing accommodation, if available.

38 (2) Affirmative or prospective relief, including injunctive or  
39 other equitable relief.

1 (3) The payment to the complainant of a civil penalty against  
2 any named respondent, not to exceed sixteen thousand dollars  
3 (\$16,000), unless, in a separate accusation, the respondent has  
4 been adjudged to have, with intent, committed a prior violation of  
5 Section 12955. If the respondent has, in a separate accusation,  
6 been adjudged to have committed a prior violation of Section  
7 12955 within the five years preceding the filing of the complaint,  
8 the amount of the civil penalty may exceed sixteen thousand dollars  
9 (\$16,000), but may not exceed thirty-seven thousand five hundred  
10 dollars (\$37,500). If the respondent, in separate accusations, has  
11 been adjudged to have, with intent, violated Section 12955 two or  
12 more times within the seven-year period preceding the filing of  
13 the complaint, the civil penalty may exceed thirty-seven thousand  
14 five hundred dollars (\$37,500), but may not exceed sixty-five  
15 thousand dollars (\$65,000). All civil penalties awarded under this  
16 provision shall be collected by the department. The commission  
17 may award the prevailing party, other than the state, reasonable  
18 attorney's fees and costs against any party other than the state,  
19 including expert witness fees.

20 (4) The payment of actual damages to the complainant.

21 (b) In determining whether to assess a civil penalty pursuant to  
22 this section, the commission shall find that the respondent has been  
23 guilty of oppression, fraud, or malice, expressed or implied, as  
24 required by Section 3294 of the Civil Code. In determining the  
25 amount of a civil penalty, the commission shall consider Section  
26 12955.6 and relevant evidence of, including, but not limited to,  
27 the following:

- 28 (1) Willful, intentional, or purposeful conduct.
- 29 (2) Refusal to prevent or eliminate discrimination.
- 30 (3) Conscious disregard for fair housing rights.
- 31 (4) Commission of unlawful conduct.
- 32 (5) Intimidation or harassment.
- 33 (6) Conduct without just cause or excuse.
- 34 (7) Multiple violations of the Fair Employment and Housing  
35 Act.

36 (c) If the commission finds that the respondent has engaged in  
37 an unlawful practice under this part, and the respondent is licensed  
38 or granted a privilege by an agency of the state or the federal  
39 government to do business, provide a service, or conduct activities,  
40 and the unlawful practice is determined to have occurred in

1 connection with the exercise of that license or privilege, the  
2 commission shall provide the licensing or privilege granting agency  
3 with a copy of its decision or order.

4 (d) If the commission finds that the respondent has engaged in  
5 an unlawful practice under this part and is liable for actual damages  
6 or a civil penalty, any amount due to the respondent by a state  
7 agency may be offset to satisfy the commission's final order or  
8 decision.

9 (e) No remedy shall be available to the aggrieved person unless  
10 the aggrieved person waives any and all rights or claims under  
11 Section 52 of the Civil Code prior to receiving a remedy, and signs  
12 a written waiver to that effect.

13 (f) The commission may require a report of the manner of  
14 compliance.

15 (g) If the commission finds that a respondent has not engaged  
16 in any practice which constitutes a violation of this part, the  
17 commission shall state its findings of fact and shall issue and cause  
18 to be served on the complainant an order dismissing the accusation  
19 as to that respondent.

20 (h) Any order issued by the commission shall have printed on  
21 its face references to the provisions of the Administrative Procedure  
22 Act which prescribe the rights of appeal of any party to the  
23 proceeding to whose position the order is adverse.