

AMENDED IN SENATE APRIL 4, 2016

SENATE BILL

No. 1053

Introduced by Senator Leno

February 16, 2016

An act to amend ~~Section~~ *Sections 12927 and 12955* of the Government Code, relating to housing discrimination.

LEGISLATIVE COUNSEL'S DIGEST

SB 1053, as amended, Leno. Housing discrimination: applications.

Existing law generally prohibits housing discrimination with respect to various personal characteristics including source of income. Existing law defines "source of income" for these purposes as lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant, which does not include a landlord.

This bill would amend the definition of "source of income" to also include specified federal, state, or local housing assistance or subsidies paid either to the tenant or directly to the landlord on behalf of the tenant.

Existing law permits a person who holds an ownership interest of record in property that he or she believes is the subject of an unlawfully restrictive covenant based on, among other things, source of income, to record a Restrictive Covenant Modification, which is to include a copy of the original document with the illegal language stricken. Before recording the modification document, existing law requires the county recorder to submit the modification document and the original document to the county counsel who is required to determine whether the original document contains an unlawful restriction.

This bill, by revising the definition of source of income, would increase the requirements on a county counsel to determine if there exists an

unlawfully restrictive covenant based on source of income, as described above. By creating new duties for county counsels, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12927 of the Government Code is
2 amended to read:

3 12927. As used in this part in connection with housing
4 accommodations, unless a different meaning clearly appears from
5 the context:

6 (a) "Affirmative actions" means any activity for the purpose of
7 eliminating discrimination in housing accommodations because
8 of race, color, religion, sex, marital status, national origin, ancestry,
9 familial status, or disability.

10 (b) "Conciliation council" means a nonprofit organization, or
11 a city or county human relations commission, which provides
12 education, factfinding, and mediation or conciliation services in
13 resolution of complaints of housing discrimination.

14 (c) (1) "Discrimination" includes refusal to sell, rent, or lease
15 housing accommodations; includes refusal to negotiate for the
16 sale, rental, or lease of housing accommodations; includes
17 representation that a housing accommodation is not available for
18 inspection, sale, or rental when that housing accommodation is in
19 fact so available; includes any other denial or withholding of
20 housing accommodations; includes provision of inferior terms,
21 conditions, privileges, facilities, or services in connection with
22 those housing accommodations; includes harassment in connection
23 with those housing accommodations; includes the cancellation or
24 termination of a sale or rental agreement; includes the provision

1 of segregated or separated housing accommodations; includes the
2 refusal to permit, at the expense of the disabled person, reasonable
3 modifications of existing premises occupied or to be occupied by
4 the disabled person, if the modifications may be necessary to afford
5 the disabled person full enjoyment of the premises, except that, in
6 the case of a rental, the landlord may, where it is reasonable to do
7 so condition permission for a modification on the renter's agreeing
8 to restore the interior of the premises to the condition that existed
9 before the modification (other than for reasonable wear and tear),
10 and includes refusal to make reasonable accommodations in rules,
11 policies, practices, or services when these accommodations may
12 be necessary to afford a disabled person equal opportunity to use
13 and enjoy a dwelling.

14 (2) "Discrimination" does not include either of the following:

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

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

24 (d) "Housing accommodation" means any building, structure,
25 or portion thereof that is occupied as, or intended for occupancy
26 as, a residence by one or more families and any vacant land that
27 is offered for sale or lease for the construction thereon of any
28 building, structure, or portion thereof intended to be so occupied.

29 (e) "Owner" includes the lessee, sublessee, assignee, managing
30 agent, real estate broker or salesperson, or any person having any
31 legal or equitable right of ownership or possession or the right to
32 rent or lease housing accommodations, and includes the state and
33 any of its political subdivisions and any agency thereof.

34 (f) "Person" includes all individuals and entities that are
35 described in Section 3602(d) of Title 42 of the United States Code,
36 and in the definition of "owner" in subdivision (e) of this section,
37 and all institutional third parties, including the Federal Home Loan
38 Mortgage Corporation.

39 (g) "Aggrieved person" includes any person who claims to have
40 been injured by a discriminatory housing practice or believes that

1 the person will be injured by a discriminatory housing practice
2 that is about to occur.

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

5 (1) The making or purchasing of loans or providing other
6 financial assistance that is for the purpose of purchasing,
7 constructing, improving, repairing, or maintaining a dwelling, or
8 that is secured by residential real estate.

9 (2) The selling, brokering, or appraising of residential real
10 property.

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

15 (i) “Source of income” means lawful, verifiable income paid
16 directly to a tenant or paid to a representative of a tenant. For the
17 purposes of this definition, a landlord is not considered a
18 representative of a tenant. *tenant, or paid to a housing owner or*
19 *landlord on behalf of a tenant, including federal, state, or local*
20 *public assistance and federal, state, or local housing subsidies,*
21 *including, but not limited to, federal housing assistance vouchers*
22 *under Section 8 of the United States Housing Act of 1937 (42*
23 *U.S.C. Sec. 1437f).*

24 **SECTION 1.**

25 *SEC. 2.* Section 12955 of the Government Code is amended
26 to read:

27 12955. It shall be unlawful:

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

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

1 (c) For any person to make, print, or publish, or cause to be
2 made, printed, or published any notice, statement, or advertisement,
3 with respect to the sale or rental of a housing accommodation that
4 indicates any preference, limitation, or discrimination based on
5 race, color, religion, sex, gender, gender identity, gender
6 expression, sexual orientation, marital status, national origin,
7 ancestry, familial status, source of income, disability, or genetic
8 information or an intention to make that preference, limitation, or
9 discrimination.

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

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

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

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

1 (h) For any person, for profit, to induce any person to sell or
2 rent any dwelling by representations regarding the entry or
3 prospective entry into the neighborhood of a person or persons of
4 a particular race, color, religion, sex, gender, gender identity,
5 gender expression, sexual orientation, marital status, ancestry,
6 disability, genetic information, source of income, familial status,
7 or national origin.

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

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

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

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

38 (m) As used in this section, “race, color, religion, sex, gender,
39 gender identity, gender expression, sexual orientation, marital
40 status, national origin, ancestry, familial status, source of income,

1 disability, or genetic information,” 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, or paid to a housing owner or
17 landlord on behalf of a tenant, including federal, state, or local
18 public assistance and federal, state, or local housing subsidies,
19 including, but not limited to, federal housing assistance vouchers
20 under Section 8 of the United States Housing Act of 1937 (42
21 U.S.C. Sec. 1437f).

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

25 *SEC. 3. If the Commission on State Mandates determines that*
26 *this act contains costs mandated by the state, reimbursement to*
27 *local agencies and school districts for those costs shall be made*
28 *pursuant to Part 7 (commencing with Section 17500) of Division*
29 *4 of Title 2 of the Government Code.*