[MS-00027.007.001.003]

STATE OF CALIFORNIA

LAWS REGARDING EQUALITY OF OPPORTUNITY IN HOUSING

I. Unruh Civil Rights Act (Civil Code)*

Sec. 51. This section shall be known, and may be cited, as the Unruh Civil Rights Act.

All persons within the jurisdiction of this State are free and equal, and no matter what their race, color, religion, ancestry, or national origin are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

This section shall not be construed to confer any right or privilege on a person which is conditioned or limited by law or which is applicable alike to persons of every color, race, religion, ancestry, or national origin.

Sec. 52. Whoever denies, or who aids, or incites such denial, or whoever makes any discrimination, distinction or restriction on account of color, race, religion, ancestry, or national origin, contrary to the provisions of Section 51 of this code, is liable for each and every such offense for the actual damages, and two hundred fifty dollars ($250) in addition thereto, suffered by any person denied the rights provided in Section 51 of this code.

*Court decisions define the term "business establishments" as including multiple dwellings of three units or more, tract developments and real estate brokerage offices.

II. Rumford Fair Housing Act (Health and Safety Code)

PART 5. DISCRIMINATION IN HOUSING

Chapter 1. Findings and Declaration of Policy

Sec. 35700. The practice of discrimination because of race, color, religion, national origin, or ancestry in housing accommodations is declared to be against public policy.

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

Chapter 2. Definitions

Sec. 35710. When used in this part:

1. The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy and receivers or other fiduciaries.

2. The term "housing accommodation" includes any improved or unimproved real property, or portion thereof, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings, but shall not include any accommodations operated by a religious, fraternal, or charitable association or corporation not organized or operated for private profit; provided, that such accommodations are being used in furtherance of the primary purpose or purposes for which the association or corporation was formed.

3. The term "publicly assisted housing accommodation" includes any housing accommodation within the State:

(a) Which at the time of any alleged unlawful discrimination under Section 35720 is granted exemption in whole or in part from taxes levied by the State or any of its political subdivisions; provided, that nothing herein contained shall apply to any housing accommodations solely because the owner thereof enjoys any type of tax exemption by virtue of his veteran status.

(b) Which is constructed on land sold below cost by the State or any of its political subdivisions or any agency thereof, pursuant to the Federal Housing Act of 1949.

(c) Which is constructed in whole or in part on property acquired or assembled by the State or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction.

(d) The acquisition or construction of which is, at the time of any alleged unlawful discrimination under Section 35720, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the State or any of its political subdivisions or any agency thereof.

4. The term "owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesman, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the State and any of its political subdivisions and any agency thereof.

5. The term "discriminate" includes to segregate or separate.

6. The term "multiple dwelling" means a dwelling which is occupied, as a rule, for permanent residence purposes and which is either rented, leased, let or hired out, to be occupied as the residence or home of three or more families living independently of each other. A "multiple dwelling" shall not be deemed to include a hospital, convent, monastery, public institution, or a building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one housing accommodation occupied by not more than two families. The term "family" means either a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. A "boarder," "roomer" or "lodger" residing with a family means a person living within the household who pays a consideration for such residence and does not occupy such space within the household as an incident of employment therein.

Chapter 3. Discrimination Prohibited

Sec. 35720. It shall be unlawful:

1. For the owner of any publicly assisted housing

accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to refuse to sell, rent or lease or otherwise to deny to or withhold from any person or group of persons such housing accommodation because of the race, color, religion, national origin, or ancestry of such person or persons.

2. For the owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to discriminate against any person because of the race, color, religion, national origin or ancestry of such person in the terms, conditions or privileges of any publicly assisted housing accommodations or in the furnishing of facilities or services in connection therewith.

3. For any owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to make or cause to be made any written or oral inquiry concerning the race, color, religion, national origin or ancestry of a person seeking to purchase, rent or lease any publicly assisted housing accommodation for the purpose of violating any of the provisions of this part.

4. For the owner of any publicly assisted housing accommodation which is a single family dwelling occupied by the owner, with knowledge of such assistance, to commit any of the acts prohibited by subdivisions 1, 2, and 3.

5. For the owner of any dwelling, other than a dwelling containing not more than four units, to commit any of the acts prohibited by subdivisions 1, 2, and 3.

6. For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, as defined in this part, and to transactions relating to sales, rentals, leases, or acquisition of housing accommodations, as defined in this part, to discriminate against any person because of race, color, religion, national origin, or ancestry with reference thereto.

7. For any person, bank, mortgage company or other financial institution to whom application is made for 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, national origin or ancestry of such person or persons, or of prospective occupants or tenants, in the terms, conditions or privileges relating to the obtaining or use of any such financial assistance.

8. 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.

Chapter 4. Enforcement

Sec. 35730. The State Fair Employment Practice Commission created by Section 1414 of the Labor Code is empowered to prevent violations of Section 35720, after a verified complaint has been filed with the commission pursuant to Section 35731.

Sec. 35730.5. The commission, in connection with its functions under this part, shall have the following powers and duties:

(a) To meet and function at any place within the State.

(b) To appoint an attorney, and such clerks and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(c) To obtain upon request and utilize the services of all governmental departments and agencies.

(d) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this part.

(e) To receive, investigate and pass upon verified complaints alleging discrimination in housing accommodations, as defined in this part, because of race, religious creed, color, national origin or ancestry.

(f) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers at such hearings relating to any matter under investigation or in question before the commission.

(g) To create such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, national origin, or ancestry, and to foster, through community effort or otherwise, good will, co-operation, and conciliation among the groups and elements of the population of the State and to make recommendations to the commission for the development of policies and procedures in general. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.

(h) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religious creed, color, national origin, or ancestry.

(i) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations.

Sec. 35731. Any person claiming to be aggrieved by an alleged violation of Section 35720 may file with the commission a verified complaint in writing which shall state the name and address of the person alleged to have committed the violation complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the commission. However, no such complaint may be made or filed unless the person claiming to be aggrieved waives any and all rights or claims that he may have under Section 52 of the Civil Code and signs a written waiver to that effect.

No complaint may be filed after the expiration of 60 days from the date upon which the alleged violation occurred. This period may be extended for not to exceed 60 days following the expiration of the initial 60 days, if a person allegedly aggrieved by such violation first obtained knowledge of the facts of such alleged violation after the expiration of the initial 60 days from date of its occurrence.

The State Fair Employment Practice Commission may thereupon proceed upon such complaint in the same manner and with the same powers as provided in Part 4.5 (commencing with Section 1410) of Division 2 of the Labor Code in the case of an unlawful employment practice, and the provisions of that part which are not inconsistent with this part as to the powers, duties and rights of the State Fair Employment Practice Commission, its chairman, members, attorneys or agents, the complainant, the respondent, the Attorney General and the superior court, shall apply to any proceeding under the provisions of this section. However, Section 1430 of the Labor Code

shall not apply to this part, and the Attorney General may not make, sign, or file a complaint under this part.

Sec. 35732. (a) If such verified complaint alleges facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Section 35720, the chairman of the commission shall designate one of the commissioners to make, with the assistance of the commission's staff, prompt investigation in connection therewith. If such commissioner determines after preliminary investigation that probable cause exists for believing the allegations of the complaint, he shall immediately endeavor to eliminate the alleged unlawful practice by conference, conciliation, and persuasion.

(b) If, after the preliminary investigation, probable cause does not exist for believing the allegations of the complaint, the assigned commissioner shall dismiss the complaint. Notice of dismissal shall be sent to the respondent and the complainant by registered mail—return receipt requested and the complainant then shall have 15 days from the receipt day to file an appeal to the dismissal.

If the assigned commissioner fails to eliminate such alleged unlawful practice and believes probable cause still exists, he may issue and serve in the name of the commission, a written accusation together with a copy of such complaint, as the same may have been amended, requiring the owner named in such accusation, hereinafter referred to as "respondent," to answer the charges of such accusation at a hearing.

The written accusation, hearings, and all matters pertaining thereto shall be in accordance with the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, and the commission shall have all the powers granted therein.

Sec. 35733. After a verified complaint has been filed with the commission pursuant to Section 35731, and the preliminary investigation thereof has been carried out, or a 20-day period has elapsed from the filing of the verified complaint, if the preliminary investigation has not then been completed, an appropriate superior court may, upon the motion of the respondent, order the commission to give to the respondent, within a specified time, a copy of any book, document, or paper, or any entries therein, in the possession or under the control of the commission, containing evidence relating to the merits of the verified complaint, or to a defense thereto. The commission shall comply with such an order.

Sec. 35734. The commission, at any time after a complaint is filed with it and it has been determined that probable cause exists for believing that the allegations of the complaint are true and constitute a violation of this part, may bring an action in the superior court to enjoin the owner of the property from taking further action with respect to the rental, lease, or sale of the property until the commission has completed its investigation and made its determination; but a temporary restraining order obtained under this section shall not, in any event, be in effect for more than 20 days. In such action an order or judgment may be entered awarding such temporary restraining order or such preliminary or final injunction in accordance with Section 527 of the Code of Civil Procedure.

Sec. 35735. All matters connected with any conference, conciliation, or persuasion efforts under this part are privileged and may not be received in evidence. The members of the commission and its staff shall not disclose to any person what has transpired in the course of such endeavors to conciliate. Every member of the commission or its staff who discloses information in violation of this section is guilty of a misdemeanor. Such disclosure by an employee subject to civil service shall be cause for disciplinary action under the State Civil Service Act.

Sec. 35736. When an owner is contacted by the commission, a commissioner, or a member of the commission's staff, he shall be informed whether the contact is for the purpose of investigation or conference, conciliation, or persuasion; and if it is for conference, conciliation, or persuasion, he shall be informed that all matters relating thereto are privileged.

Sec. 35737. The commission shall without undue delay cause a copy of the verified complaint that has been filed under the provisions of this part to be served upon or mailed to the owner alleged to have committed the violation complained of.

Sec. 35738. If the commission finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such practice and to take one of the following affirmative actions, as, in the judgment of the commission, will effectuate the purpose of this part:

(1) The sale or rental of the housing accommodation to the aggrieved person, if it is still available.

(2) The sale or rental of a like accommodation, if one is available, or the next vacancy in a like accommodation.

(3) The payment of damages to the aggrieved person in an amount not to exceed five hundred dollars ($500), if the commission determines that neither of the remedies under (1) or (2) is available.

The commission may require a report of the manner of compliance.

If the commission finds that a respondent has not engaged in any practice which constitutes a violation of this part, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said accusation as to such respondent. A copy of its order shall be delivered in all cases to the Attorney General and such other public officers as the commission deems proper.

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

Chapter 5. Miscellaneous

Sec. 35740. Nothing contained in this part shall be deemed to repeal any of the provisions of any other law of this State relating to discrimination because of race, color, religion, national origin or ancestry.

Sec. 35741. Nothing in this part shall be construed to affect the title or other interest of a person who purchases, leases, or takes an encumbrance on a housing accommodation in good faith and without knowledge that the owner or lessor of the property has violated any provision of this part.

Sec. 35742. Nothing contained in this part shall be construed to prohibit selection based upon factors other

than race, color, religion, national origin, or ancestry.

Sec. 35743. As it is the intention of the Legislature to occupy the whole field of regulation encompassed by the provisions of this part, the regulation by law of discrimination in housing contained in this part shall be exclusive of all other laws banning discrimination in housing by any city, city and county, county, or other political subdivision of the State. Nothing contained in this part shall be construed to, in any manner or way, limit or restrict the application of Section 51 of the Civil Code.

Sec. 35744. The provisions of this part shall be liberally construed for the purpose of effectuating the public policy contained herein.

Sec. 3. Section 1414 of the Labor Code is amended to read:

1414. There is in the Division of Fair Employment Practices the State Fair Employment Practice Commission. Such commission shall consist of seven members, to be known as commissioners, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and one of whom shall be designated as chairman by the Governor. The term of office of each member of the commission shall be for four years; provided, however, that of the commissioners first appointed two shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. The term of office of each member of the commission appointed pursuant to the 1963 amendments to this section shall also be for four years; provided, however, that of the two commissioners first appointed pursuant to the said amendments, one shall be appointed for a term which shall expire September 18, 1966, and one for a term which shall expire September 18, 1967.

Sec. 4. Section 1419.5 is added to the Labor Code, to read:

1419.5. The commission is empowered to prevent discrimination in housing as provided in Part 5 (commencing with Section 35700) of Division 24 of the Health and Safety Code.

Sec. 5. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

FAIR EMPLOYMENT PRACTICE COMMISSION • STATE OF CALIFORNIA

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