

AMENDED IN SENATE SEPTEMBER 3, 1999

AMENDED IN SENATE AUGUST 24, 1999

AMENDED IN ASSEMBLY MAY 28, 1999

AMENDED IN ASSEMBLY APRIL 28, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1001

**Introduced by Assembly Members Villaraigosa, Hertzberg,
Keeley, Kuehl, Migden, and Shelley**

(Principal coauthor: Senator Vasconcellos)

**(Coauthors: Assembly Members Aroner, Corbett, Firebaugh,
Honda, Jackson, Knox, Mazzoni, Romero, Steinberg,
Strom-Martin, and Thomson)**

(Coauthors: Senators Hayden, Solis, and Speier)

February 25, 1999

An act to amend Sections 12920, 12921, 12926, 12930, 12931, 12935, 12940, 12944, ~~12955~~, 12955.8, and 12993 of, *and to amend, repeal, and add Section 12955 to*, the Government Code, and to repeal Section 1102.1 of the Labor Code, relating to fair employment and housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1001, as amended, Villaraigosa. Fair employment and housing.

(1) Under the California Fair Employment and Housing Act, it is unlawful to engage in specified discriminatory employment practices, including hiring, promotion, and

termination on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age. The act also makes it unlawful to engage in specified discriminatory practices in housing accommodations on the basis of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

This bill would amend the act to include sexual orientation, as defined, within the unlawful bases for discrimination in employment and housing accommodations.

(2) Under existing law codified in the Labor Code, discrimination or different treatment in any aspect of employment or opportunity for employment, as specified, and with certain exceptions, based on actual or perceived sexual orientation, is prohibited.

This bill would repeal the provision of the Labor Code that expresses that prohibition.

(3) *This bill would incorporate additional changes in Sections 12921, 12926, 12930, 12940, and 12955 of the Government Code to be operative if this bill and one or more of the other bills are enacted and become effective on or before January 1, 2000, and this bill is enacted last.*

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 that the
2 purpose of this act is to incorporate in the California Fair
3 Employment and Housing Act (Part 2.8 (commencing
4 with Section 12900) of Division 3 of Title 2 of the
5 Government Code) the prohibition against
6 discrimination or different treatment in any aspect of
7 employment or opportunity for employment based on
8 sexual orientation, contained in Section 1102.1 of the
9 Labor Code, as that section read on December 31, 1999.
10 As was the intent of Section 1102.1 of the Labor Code, as
11 that section read on December 31, 1999, this act is
12 intended to codify the court decisions in *Gay Law*
13 *Students v. Pacific Telephone and Telegraph* (1979) 24

1 Cal.3d 458 and *Soroka v. Dayton Hudson Corp.* (1991) 235
2 Cal.App.3d 654, prohibiting discrimination based on
3 sexual orientation. Any conduct that would have been a
4 violation of Section 1102.1 of the Labor Code, as it read on
5 December 1, 1999, shall be deemed a violation of this act.
6 Nothing in this section is intended to alter the definition
7 of employer with regard to any bona fide scouting
8 organization covered under Section 1102.1 of the Labor
9 Code as it read on December 1, 1999.

10 SEC. 1.5. Section 12920 of the Government Code is
11 amended to read:

12 12920. It is hereby declared as the public policy of this
13 state that it is necessary to protect and safeguard the right
14 and opportunity of all persons to seek, obtain, and hold
15 employment without discrimination or abridgment on
16 account of race, religious creed, color, national origin,
17 ancestry, physical disability, mental disability, medical
18 condition, marital status, sex, age, or sexual orientation.

19 It is recognized that the practice of denying
20 employment opportunity and discriminating in the terms
21 of employment for these reasons foments domestic strife
22 and unrest, deprives the state of the fullest utilization of
23 its capacities for development and advancement, and
24 substantially and adversely affects the interest of
25 employees, employers, and the public in general.

26 Further, the practice of discrimination because of race,
27 color, religion, sex, marital status, national origin,
28 ancestry, familial status, disability, or sexual orientation in
29 housing accommodations is declared to be against public
30 policy.

31 It is the purpose of this part to provide effective
32 remedies that will eliminate these discriminatory
33 practices.

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

37 SEC. 2. Section 12921 of the Government Code is
38 amended to read:

39 12921. The opportunity to seek, obtain and hold
40 employment without discrimination because of race,

1 religious creed, color, national origin, ancestry, physical
2 disability, mental disability, medical condition, marital
3 status, sex, age, or sexual orientation is hereby recognized
4 as and declared to be a civil right.

5 *SEC. 2.5. Section 12921 of the Government Code is*
6 *amended to read:*

7 12921. (a) The opportunity to seek, obtain and hold
8 employment without discrimination because of race,
9 religious creed, color, national origin, ancestry, physical
10 disability, mental disability, medical condition, marital
11 status, sex, ~~or~~ age, *or sexual orientation* is hereby
12 recognized as and declared to be a civil right.

13 (b) *The opportunity to seek, obtain, and hold housing*
14 *without discrimination because of race, color, religion,*
15 *sex, sexual orientation, marital status, national origin,*
16 *ancestry, familial status, disability, or any other basis*
17 *prohibited by Section 51 of the Civil Code is hereby*
18 *recognized as and declared to be a civil right.*

19 *SEC. 3. Section 12926 of the Government Code is*
20 *amended to read:*

21 12926. As used in this part in connection with
22 unlawful practices, unless a different meaning clearly
23 appears from the context:

24 (a) “Affirmative relief” or “prospective relief”
25 includes the authority to order reinstatement of an
26 employee, awards of backpay, reimbursement of
27 out-of-pocket expenses, hiring, transfers, reassignments,
28 grants of tenure, promotions, cease and desist orders,
29 posting of notices, training of personnel, testing,
30 expunging of records, reporting of records, and any other
31 similar relief that is intended to correct unlawful
32 practices under this part.

33 (b) “Age” refers to the chronological age of any
34 individual who has reached his or her 40th birthday.

35 (c) “Employee” does not include any individual
36 employed by his or her parents, spouse, or child, or any
37 individual employed under a special license in a nonprofit
38 sheltered workshop or rehabilitation facility.

39 (d) “Employer” includes any person regularly
40 employing five or more persons, or any person acting as

1 an agent of an employer, directly or indirectly, the state
2 or any political or civil subdivision of the state, and cities,
3 except as follows:

4 (1) “Employer” does not include a religious
5 association or corporation not organized for private
6 profit.

7 (2) “Employer,” for purposes of provisions defining
8 unlawful employment practices related to mental
9 disability, means any person regularly employing 15 or
10 more persons, or any person directly or indirectly acting
11 as an agent of such an employer, and also includes the
12 state and municipalities and political subdivisions of the
13 state.

14 (e) “Employment agency” includes any person
15 undertaking for compensation to procure employees or
16 opportunities to work.

17 (f) “Essential functions” means the fundamental job
18 duties of the employment position the individual with a
19 disability holds or desires. “Essential functions” does not
20 include the marginal functions of the position.

21 (1) A job function may be considered essential for any
22 of several reasons, including, but not limited to, any one
23 or more of the following:

24 (A) The function may be essential because the reason
25 the position exists is to perform that function.

26 (B) The function may be essential because of the
27 limited number of employees available among whom the
28 performance of that job function can be distributed.

29 (C) The function may be highly specialized, so that the
30 incumbent in the position is hired for his or her expertise
31 or ability to perform the particular function.

32 (2) Evidence of whether a particular function is
33 essential includes, but is not limited to, the following:

34 (A) The employer’s judgment as to which functions
35 are essential.

36 (B) Written job descriptions prepared before
37 advertising or interviewing applicants for the job.

38 (C) The amount of time spent on the job performing
39 the function.

1 (D) The consequences of not requiring the incumbent
2 to perform the function.

3 (E) The terms of a collective bargaining agreement.

4 (F) The work experiences of past incumbents in the
5 job.

6 (G) The current work experience of incumbents in
7 similar jobs.

8 (g) “Labor organization” includes any organization
9 that exists and is constituted for the purpose, in whole or
10 in part, of collective bargaining or of dealing with
11 employers concerning grievances, terms or conditions of
12 employment, or of other mutual aid or protection.

13 (h) “Medical condition” includes (1) genetic
14 characteristics, or (2) any health impairment related to
15 or associated with a diagnosis of cancer, for which a
16 person has been rehabilitated or cured, based on
17 competent medical evidence. For purposes of this
18 section, “genetic characteristics” means any scientifically
19 or medically identifiable gene or chromosome, or
20 combination or alteration thereof, that is known to be a
21 cause of a disease or disorder in a person or his or her
22 offspring, or is determined to be associated with a
23 statistically increased risk of development of a disease or
24 disorder, or inherited characteristics that may derive
25 from the individual or family member, that is presently
26 not associated with any symptoms of any disease or
27 disorder.

28 (i) “Mental disability” includes any mental or
29 psychological disorder, such as mental retardation,
30 organic brain syndrome, emotional or mental illness, and
31 specific learning disabilities. However, “mental
32 disability” does not include conditions excluded from the
33 federal definition of “disability” pursuant to Section 511
34 of the Americans with Disabilities Act of 1990 (42 U.S.C.;
35 Sec. 12211). Additionally, for purposes of this part, the
36 unlawful use of controlled substances or other drugs shall
37 not be deemed, in and of itself, to constitute a mental
38 disability.

39 (j) “On the bases enumerated in this part” means or
40 refers to discrimination on the basis of one or more of the

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

4 (k) “Physical disability” includes, but is not limited to,
5 all of the following:

6 (1) Having any physiological disease, disorder,
7 condition, cosmetic disfigurement, or anatomical loss that
8 does both of the following:

9 (A) Affects one or more of the following body systems:
10 neurological, immunological, musculoskeletal, special
11 sense organs, respiratory, including speech organs,
12 cardiovascular, reproductive, digestive, genitourinary,
13 hemic and lymphatic, skin, and endocrine.

14 (B) Limits an individual’s ability to participate in
15 major life activities.

16 (2) Any other health impairment not described in
17 paragraph (1) that requires special education or related
18 services.

19 (3) Being regarded as having or having had a disease,
20 disorder, condition, cosmetic disfigurement, anatomical
21 loss, or health impairment described in paragraph (1) or
22 (2).

23 (4) Being regarded as having, or having had, a disease,
24 disorder, condition, cosmetic disfigurement, anatomical
25 loss, or health impairment that has no present disabling
26 effect but may become a physical disability as described
27 in paragraph (1) or (2).

28 It is the intent of the Legislature that the definition of
29 “physical disability” in this subdivision shall have the
30 same meaning as the term “physical handicap” formerly
31 defined by this subdivision and construed in *American*
32 *National Ins. Co. v. Fair Employment & Housing Com.*,
33 *(1982) 32 Cal.3d 603*. However, “physical disability” does
34 not include conditions excluded from the federal
35 definition of “disability” pursuant to Section 511 of the
36 *Americans with Disabilities Act of 1990 (42 U.S.C. Sec.*
37 *12211)*. Additionally, for purposes of this part, the
38 unlawful use of controlled substances or other drugs shall
39 not be deemed, in and of itself, to constitute a physical
40 disability.

1 (l) Notwithstanding subdivisions (i) and (k), if the
2 definition of “disability” used in the Americans with
3 Disabilities Act of 1990 (Public Law 101-336) would result
4 in broader protection of the civil rights of individuals with
5 a mental disability or physical disability, as defined in
6 subdivision (i) or (k), or would include any medical
7 condition not included within those definitions, then that
8 broader protection or coverage shall be deemed
9 incorporated by reference into, and shall prevail over
10 conflicting provisions of, the definitions in subdivisions
11 (i) and (k).

12 (m) “Reasonable accommodation” may include either
13 of the following:

14 (1) Making existing facilities used by employees
15 readily accessible to, and usable by, individuals with
16 disabilities.

17 (2) Job restructuring, part-time or modified work
18 schedules, reassignment to a vacant position, acquisition
19 or modification of equipment or devices, adjustment or
20 modifications of examinations, training materials or
21 policies, the provision of qualified readers or interpreters,
22 and other similar accommodations for individuals with
23 disabilities.

24 (n) “Religious creed,” “religion,” “religious
25 observance,” “religious belief,” and “creed” include all
26 aspects of religious belief, observance, and practice.

27 (o) “Sex” includes, but is not limited to, pregnancy,
28 childbirth, or medical conditions related to pregnancy or
29 childbirth.

30 (p) “Sexual orientation” means heterosexuality,
31 homosexuality, and bisexuality.

32 (q) “Undue hardship” means an action requiring
33 significant difficulty or expense, when considered in light
34 of the following factors: (1) the nature and cost of the
35 accommodation needed, (2) the overall financial
36 resources of the facilities involved in the provision of the
37 reasonable accommodations, the number of persons
38 employed at the facility, and the effect on expenses and
39 resources or the impact otherwise of these
40 accommodations upon the operation of the facility, (3)



1 the overall financial resources of the covered entity, the
2 overall size of the business of a covered entity with
3 respect to the number of employees, and the number,
4 type, and location of its facilities, (4) the type of
5 operations, including the composition, structure, and
6 functions of the work force of the entity, and (5) the
7 geographic separateness, administrative, or fiscal
8 relationship of the facility or facilities.

9 *SEC. 3.5. Section 12926 of the Government Code is*
10 *amended to read:*

11 12926. As used in this part in connection with
12 unlawful practices, unless a different meaning clearly
13 appears from the context:

14 (a) “Affirmative relief” or “prospective relief”
15 includes the authority to order reinstatement of an
16 employee, awards of backpay, reimbursement of
17 out-of-pocket expenses, hiring, transfers, reassignments,
18 grants of tenure, promotions, cease and desist orders,
19 posting of notices, training of personnel, testing,
20 expunging of records, reporting of records, and any other
21 similar relief that is intended to correct unlawful
22 practices under this part.

23 (b) “Age” refers to the chronological age of any
24 individual who has reached his or her 40th birthday.

25 (c) “Employee” does not include any individual
26 employed by his or her parents, spouse, or child, or any
27 individual employed under a special license in a nonprofit
28 sheltered workshop or rehabilitation facility.

29 (d) “Employer” includes any person regularly
30 employing five or more persons, or any person acting as
31 an agent of an employer, directly or indirectly, the state
32 or any political or civil subdivision ~~thereof~~ *of the state*,
33 and cities, except as follows:

34 ~~(1) “Employer”~~

35 “Employer” does not include a religious association or
36 corporation not organized for private profit.

37 ~~(2) “Employer,” for purposes of provisions defining~~
38 ~~unlawful employment practices related to mental~~
39 ~~disability, means any person regularly employing 15 or~~
40 ~~more persons, or any person directly or indirectly acting~~

~~1 as an agent of such an employer, and also includes the~~
~~2 state and municipalities and political subdivisions of the~~
~~3 state.~~

4 (e) “Employment agency” includes any person
5 undertaking for compensation to procure employees or
6 opportunities to work.

7 (f) “Essential functions” means the fundamental job
8 duties of the employment position the individual with a
9 disability holds or desires. “Essential functions” does not
10 include the marginal functions of the position.

11 (1) A job function may be considered essential for any
12 of several reasons, including, but not limited to, any one
13 or more of the following:

14 (A) The function may be essential because the reason
15 the position exists is to perform that function.

16 (B) The function may be essential because of the
17 limited number of employees available among whom the
18 performance of that job function can be distributed.

19 (C) The function may be highly specialized, so that the
20 incumbent in the position is hired for his or her expertise
21 or ability to perform the particular function.

22 (2) Evidence of whether a particular function is
23 essential includes, but is not limited to, the following:

24 (A) The employer’s judgment as to which functions
25 are essential.

26 (B) Written job descriptions prepared before
27 advertising or interviewing applicants for the job.

28 (C) The amount of time spent on the job performing
29 the function.

30 (D) The consequences of not requiring the incumbent
31 to perform the function.

32 (E) The terms of a collective bargaining agreement.

33 (F) The work experiences of past incumbents in the
34 job.

35 (G) The current work experience of incumbents in
36 similar jobs.

37 (g) “Labor organization” includes any organization
38 that exists and is constituted for the purpose, in whole or
39 in part, of collective bargaining or of dealing with

1 employers concerning grievances, terms or conditions of
2 employment, or of other mutual aid or protection.

3 (h) “Medical condition” includes (1) genetic
4 characteristics, or (2) any health impairment related to
5 or associated with a diagnosis of cancer, for which a
6 person has been rehabilitated or cured, based on
7 competent medical evidence. For purposes of this
8 section, “genetic characteristics” means any scientifically
9 or medically identifiable gene or chromosome, or
10 combination or alteration thereof, that is known to be a
11 cause of a disease or disorder in a person or his or her
12 offspring, or is determined to be associated with a
13 statistically increased risk of development of a disease or
14 disorder, or inherited characteristics that may derive
15 from the individual or family member, that is presently
16 not associated with any symptoms of any disease or
17 disorder.

18 (i) “Mental disability” includes any mental or
19 psychological disorder, such as mental retardation,
20 organic brain syndrome, emotional or mental illness, and
21 specific learning disabilities. However, “mental
22 disability” does not include conditions excluded from the
23 federal definition of “disability” pursuant to Section 511
24 of the Americans with Disabilities Act of 1990 (42 U.S.C.;
25 Sec. 12211). Additionally, for purposes of this part, the
26 unlawful use of controlled substances or other drugs shall
27 not be deemed, in and of itself, to constitute a mental
28 disability.

29 (j) “On the bases enumerated in this part” means or
30 refers to discrimination on the basis of one or more of the
31 following: race, religious creed, color, national origin,
32 ancestry, physical disability, mental disability, medical
33 condition, marital status, sex, ~~or~~ age, *or sexual orientation*.

34 (k) “Physical disability” includes, but is not limited to,
35 all of the following:

36 (1) Having any physiological disease, disorder,
37 condition, cosmetic disfigurement, or anatomical loss that
38 does both of the following:

39 (A) Affects one or more of the following body systems:
40 neurological, immunological, musculoskeletal, special

1 sense organs, respiratory, including speech organs,
2 cardiovascular, reproductive, digestive, genitourinary,
3 hemic and lymphatic, skin, and endocrine.

4 (B) Limits an individual's ability to participate in
5 major life activities.

6 (2) Any other health impairment not described in
7 paragraph (1) that requires special education or related
8 services.

9 (3) Being regarded as having or having had a disease,
10 disorder, condition, cosmetic disfigurement, anatomical
11 loss, or health impairment described in paragraph (1) or
12 (2).

13 (4) Being regarded as having, or having had, a disease,
14 disorder, condition, cosmetic disfigurement, anatomical
15 loss, or health impairment that has no present disabling
16 effect but may become a physical disability as described
17 in paragraph (1) or (2).

18 It is the intent of the Legislature that the definition of
19 "physical disability" in this subdivision shall have the
20 same meaning as the term "physical handicap" formerly
21 defined by this subdivision and construed in *American*
22 *National Ins. Co. v. Fair Employment & Housing Com.*,
23 *(1982) 32 Cal. 3d 603*. However, "physical disability" does
24 not include conditions excluded from the federal
25 definition of "disability" pursuant to Section 511 of the
26 Americans with Disabilities Act of 1990 (42 U.S.C., Sec.
27 12211). Additionally, for purposes of this part, the
28 unlawful use of controlled substances or other drugs shall
29 not be deemed, in and of itself, to constitute a physical
30 disability.

31 (l) Notwithstanding subdivisions (i) and (k), if the
32 definition of "disability" used in the Americans with
33 Disabilities Act of 1990 (Public Law 101-336) would result
34 in broader protection of the civil rights of individuals with
35 a mental disability or physical disability, as defined in
36 subdivision (i) or (k), or would include any medical
37 condition not included within those definitions, then that
38 broader protection or coverage shall be deemed
39 incorporated by reference into, and shall prevail over

1 conflicting provisions of, the definitions in subdivisions
2 (i) and (k).

3 (m) *“Race, religious creed, color, national origin,*
4 *national origin, ancestry, physical disability, mental*
5 *disability, medical condition, marital status, sex, age, or*
6 *sexual orientation” includes a perception that the person*
7 *has any of those characteristics or that the person is*
8 *associated with a person who has, or is perceived to have,*
9 *any of those characteristics.*

10 (n) *“Reasonable accommodation” may include either*
11 *of the following:*

12 (1) *Making existing facilities used by employees*
13 *readily accessible to, and usable by, individuals with*
14 *disabilities.*

15 (2) *Job restructuring, part-time or modified work*
16 *schedules, reassignment to a vacant position, acquisition*
17 *or modification of equipment or devices, adjustment or*
18 *modifications of examinations, training materials or*
19 *policies, the provision of qualified readers or interpreters,*
20 *and other similar accommodations for individuals with*
21 *disabilities.*

22 ~~(n)~~

23 (o) *“Religious creed,” “religion,” “religious*
24 *observance,” “religious belief,” and “creed” include all*
25 *aspects of religious belief, observance, and practice.*

26 ~~(o)~~

27 (p) *“Sex” includes, but is not limited to, pregnancy,*
28 *childbirth, or medical conditions related to pregnancy or*
29 *childbirth.*

30 ~~(p)~~

31 (q) *“Sexual orientation” means heterosexuality,*
32 *homosexuality, and bisexuality.*

33 (r) *“Supervisor” means any individual having the*
34 *authority, in the interest of the employer, to hire,*
35 *transfer, suspend, lay off, recall, promote, discharge,*
36 *assign, reward, or discipline other employees, or the*
37 *responsibility to direct them, or to adjust their grievances,*
38 *or effectively to recommend that action, if, in connection*
39 *with the foregoing, the exercise of that authority is not of*

1 *a merely routine or clerical nature, but requires the use*
2 *of independent judgment.*

3 (s) “Undue hardship” means an action requiring
4 significant difficulty or expense, when considered in light
5 of the following factors: (1) the nature and cost of the
6 accommodation needed, (2) the overall financial
7 resources of the facilities involved in the provision of the
8 reasonable accommodations, the number of persons
9 employed at the facility, and the effect on expenses and
10 resources or the impact otherwise of these
11 accommodations upon the operation of the facility, (3)
12 the overall financial resources of the covered entity, the
13 overall size of the business of a covered entity with
14 respect to the number of employees, and the number,
15 type, and location of its facilities, (4) the type of
16 operations, including the composition, structure, and
17 functions of the work force of the entity, and (5) the
18 geographic separateness, administrative, or fiscal
19 relationship of the facility or facilities.

20 *SEC. 3.6. Section 12926 of the Government Code is*
21 *amended to read:*

22 12926. As used in this part in connection with
23 unlawful practices, unless a different meaning clearly
24 appears from the context:

25 (a) “Affirmative relief” or “prospective relief”
26 includes the authority to order reinstatement of an
27 employee, awards of backpay, reimbursement of
28 out-of-pocket expenses, hiring, transfers, reassignments,
29 grants of tenure, promotions, cease and desist orders,
30 posting of notices, training of personnel, testing,
31 expunging of records, reporting of records, and any other
32 similar relief that is intended to correct unlawful
33 practices under this part.

34 (b) “Age” refers to the chronological age of any
35 individual who has reached his or her 40th birthday.

36 (c) “Employee” does not include any individual
37 employed by his or her parents, spouse, or child, or any
38 individual employed under a special license in a nonprofit
39 sheltered workshop or rehabilitation facility.

(d) “Employer” includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision ~~thereof~~ *of the state*, and cities, except as follows:

(1) “Employer” does not include a religious association or corporation not organized for private profit.

(2) “Employer,” for purposes of provisions defining unlawful employment practices related to mental disability, means any person regularly employing 15 or more persons, or any person directly or indirectly acting as an agent of such an employer, and also includes the state and municipalities and political subdivisions of the state.

(e) “Employment agency” includes any person undertaking for compensation to procure employees or opportunities to work.

(f) “Essential functions” means the fundamental job duties of the employment position the individual with a disability holds or desires. “Essential functions” does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer’s judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

1 (C) The amount of time spent on the job performing
2 the function.

3 (D) The consequences of not requiring the incumbent
4 to perform the function.

5 (E) The terms of a collective bargaining agreement.

6 (F) The work experiences of past incumbents in the
7 job.

8 (G) The current work experience of incumbents in
9 similar jobs.

10 (g) “Labor organization” includes any organization
11 that exists and is constituted for the purpose, in whole or
12 in part, of collective bargaining or of dealing with
13 employers concerning grievances, terms or conditions of
14 employment, or of other mutual aid or protection.

15 (h) “Medical condition” includes ~~(1) — genetic~~
16 ~~characteristics, or (2) any~~ *either of the following:*

17 (1) Any health impairment related to or associated
18 with a diagnosis of cancer, for which a person has been
19 rehabilitated or cured, based on competent medical
20 evidence.

21 (2) *Genetic characteristics.* For purposes of this
22 section, “genetic characteristics” means ~~any~~ *either of the*
23 *following:*

24 (A) Any scientifically or medically identifiable gene or
25 chromosome, or combination or alteration thereof, that
26 is known to be a cause of a disease or disorder in a person
27 or his or her offspring, or *that* is determined to be
28 associated with a statistically increased risk of
29 development of a disease or disorder, ~~or—inherited and~~
30 *that is presently not associated with any symptoms of any*
31 *disease or disorder.*

32 (B) *Inherited* characteristics that may derive from the
33 individual or family member, ~~that is~~ *are known to be a*
34 *cause of a disease or disorder in a person or his or her*
35 *offspring, or that are determined to be associated with a*
36 *statistically increased risk of development of a disease or*
37 *disorder, and that are* presently not associated with any
38 symptoms of any disease or disorder.

39 (i) “Mental disability” includes any mental or
40 psychological disorder, such as mental retardation,

1 organic brain syndrome, emotional or mental illness, and
2 specific learning disabilities. However, “mental
3 disability” does not include conditions excluded from the
4 federal definition of “disability” pursuant to Section 511
5 of the Americans with Disabilities Act of 1990 (42 U.S.C.;
6 Sec. 12211). Additionally, for purposes of this part, the
7 unlawful use of controlled substances or other drugs shall
8 not be deemed, in and of itself, to constitute a mental
9 disability.

10 (j) “On the bases enumerated in this part” means or
11 refers to discrimination on the basis of one or more of the
12 following: race, religious creed, color, national origin,
13 ancestry, physical disability, mental disability, medical
14 condition, marital status, sex, ~~or~~ age, *or sexual orientation*.

15 (k) “Physical disability” includes, but is not limited to,
16 all of the following:

17 (1) Having any physiological disease, disorder,
18 condition, cosmetic disfigurement, or anatomical loss that
19 does both of the following:

20 (A) Affects one or more of the following body systems:
21 neurological, immunological, musculoskeletal, special
22 sense organs, respiratory, including speech organs,
23 cardiovascular, reproductive, digestive, genitourinary,
24 hemic and lymphatic, skin, and endocrine.

25 (B) Limits an individual’s ability to participate in
26 major life activities.

27 (2) Any other health impairment not described in
28 paragraph (1) that requires special education or related
29 services.

30 (3) Being regarded as having or having had a disease,
31 disorder, condition, cosmetic disfigurement, anatomical
32 loss, or health impairment described in paragraph (1) or
33 (2).

34 (4) Being regarded as having, or having had, a disease,
35 disorder, condition, cosmetic disfigurement, anatomical
36 loss, or health impairment that has no present disabling
37 effect but may become a physical disability as described
38 in paragraph (1) or (2).

39 It is the intent of the Legislature that the definition of
40 “physical disability” in this subdivision shall have the

1 same meaning as the term “physical handicap” formerly
2 defined by this subdivision and construed in *American*
3 *National Ins. Co. v. Fair Employment & Housing Com.*;
4 (1982) 32 Cal. 3d 603. However, “physical disability” does
5 not include conditions excluded from the federal
6 definition of “disability” pursuant to Section 511 of the
7 Americans with Disabilities Act of 1990 (42 U.S.C.; Sec.
8 12211). Additionally, for purposes of this part, the
9 unlawful use of controlled substances or other drugs shall
10 not be deemed, in and of itself, to constitute a physical
11 disability.

12 (l) Notwithstanding subdivisions (i) and (k), if the
13 definition of “disability” used in the Americans with
14 Disabilities Act of 1990 (Public Law 101-336) would result
15 in broader protection of the civil rights of individuals with
16 a mental disability or physical disability, as defined in
17 subdivision (i) or (k), or would include any medical
18 condition not included within those definitions, then that
19 broader protection or coverage shall be deemed
20 incorporated by reference into, and shall prevail over
21 conflicting provisions of, the definitions in subdivisions
22 (i) and (k).

23 (m) “Reasonable accommodation” may include either
24 of the following:

25 (1) Making existing facilities used by employees
26 readily accessible to, and usable by, individuals with
27 disabilities.

28 (2) Job restructuring, part-time or modified work
29 schedules, reassignment to a vacant position, acquisition
30 or modification of equipment or devices, adjustment or
31 modifications of examinations, training materials or
32 policies, the provision of qualified readers or interpreters,
33 and other similar accommodations for individuals with
34 disabilities.

35 (n) “Religious creed,” “religion,” “religious
36 observance,” “religious belief,” and “creed” include all
37 aspects of religious belief, observance, and practice.

38 (o) “Sex” includes, but is not limited to, pregnancy,
39 childbirth, or medical conditions related to pregnancy or
40 childbirth.

(p) “Sexual orientation” means heterosexuality, homosexuality, and bisexuality.

(q) “Undue hardship” means an action requiring significant difficulty or expense, when considered in light of the following factors: (1) the nature and cost of the accommodation needed, (2) the overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility, (3) the overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities, (4) the type of operations, including the composition, structure, and functions of the work force of the entity, and (5) the geographic separateness, administrative, or fiscal relationship of the facility or facilities.

SEC. 3.7. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) “Affirmative relief” or “prospective relief” includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) “Age” refers to the chronological age of any individual who has reached his or her 40th birthday.

(c) “Employee” does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) “Employer” includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision ~~thereof of the state~~, and cities, except as follows:

~~(1) “Employer”~~

“Employer” does not include a religious association or corporation not organized for private profit.

~~(2) “Employer,” for purposes of provisions defining unlawful employment practices related to mental disability, means any person regularly employing 15 or more persons, or any person directly or indirectly acting as an agent of such an employer, and also includes the state and municipalities and political subdivisions of the state.~~

(e) “Employment agency” includes any person undertaking for compensation to procure employees or opportunities to work.

(f) “Essential functions” means the fundamental job duties of the employment position the individual with a disability holds or desires. “Essential functions” does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer’s judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

(g) “Labor organization” includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(h) “Medical condition” includes ~~(1) — genetic characteristics, or (2) any~~ *either of the following*:

(1) Any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence. For

(2) Genetic characteristics. For purposes of this section, “genetic characteristics” means any either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, or — inherited and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that is are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(i) “Mental disability” includes any mental or psychological disorder, such as mental retardation,

1 organic brain syndrome, emotional or mental illness, and
2 specific learning disabilities. However, “mental
3 disability” does not include conditions excluded from the
4 federal definition of “disability” pursuant to Section 511
5 of the Americans with Disabilities Act of 1990 (42 U.S.C.;
6 Sec. 12211). Additionally, for purposes of this part, the
7 unlawful use of controlled substances or other drugs shall
8 not be deemed, in and of itself, to constitute a mental
9 disability.

10 (j) “On the bases enumerated in this part” means or
11 refers to discrimination on the basis of one or more of the
12 following: race, religious creed, color, national origin,
13 ancestry, physical disability, mental disability, medical
14 condition, marital status, sex, ~~or~~ age, *or sexual orientation*.

15 (k) “Physical disability” includes, but is not limited to,
16 all of the following:

17 (1) Having any physiological disease, disorder,
18 condition, cosmetic disfigurement, or anatomical loss that
19 does both of the following:

20 (A) Affects one or more of the following body systems:
21 neurological, immunological, musculoskeletal, special
22 sense organs, respiratory, including speech organs,
23 cardiovascular, reproductive, digestive, genitourinary,
24 hemic and lymphatic, skin, and endocrine.

25 (B) Limits an individual’s ability to participate in
26 major life activities.

27 (2) Any other health impairment not described in
28 paragraph (1) that requires special education or related
29 services.

30 (3) Being regarded as having or having had a disease,
31 disorder, condition, cosmetic disfigurement, anatomical
32 loss, or health impairment described in paragraph (1) or
33 (2).

34 (4) Being regarded as having, or having had, a disease,
35 disorder, condition, cosmetic disfigurement, anatomical
36 loss, or health impairment that has no present disabling
37 effect but may become a physical disability as described
38 in paragraph (1) or (2).

39 It is the intent of the Legislature that the definition of
40 “physical disability” in this subdivision shall have the

1 same meaning as the term “physical handicap” formerly
 2 defined by this subdivision and construed in American
 3 National Ins. Co. v. Fair Employment & Housing Com.;
 4 (1982) 32 Cal. 3d 603. However, “physical disability” does
 5 not include conditions excluded from the federal
 6 definition of “disability” pursuant to Section 511 of the
 7 Americans with Disabilities Act of 1990 (42 U.S.C., Sec.
 8 12211). Additionally, for purposes of this part, the
 9 unlawful use of controlled substances or other drugs shall
 10 not be deemed, in and of itself, to constitute a physical
 11 disability.

12 (l) Notwithstanding subdivisions (i) and (k), if the
 13 definition of “disability” used in the Americans with
 14 Disabilities Act of 1990 (Public Law 101-336) would result
 15 in broader protection of the civil rights of individuals with
 16 a mental disability or physical disability, as defined in
 17 subdivision (i) or (k), or would include any medical
 18 condition not included within those definitions, then that
 19 broader protection or coverage shall be deemed
 20 incorporated by reference into, and shall prevail over
 21 conflicting provisions of, the definitions in subdivisions
 22 (i) and (k).

23 (m) *“Race, religious creed, color, national origin,*
 24 *ancestry, physical disability, mental disability, medical*
 25 *condition, marital status, sex, age, or sexual orientation”*
 26 *includes a perception that the person has any of those*
 27 *characteristics or that the person is associated with a*
 28 *person who has, or is perceived to have, any of those*
 29 *characteristics.*

30 (n) “Reasonable accommodation” may include either
 31 of the following:

32 (1) Making existing facilities used by employees
 33 readily accessible to, and usable by, individuals with
 34 disabilities.

35 (2) Job restructuring, part-time or modified work
 36 schedules, reassignment to a vacant position, acquisition
 37 or modification of equipment or devices, adjustment or
 38 modifications of examinations, training materials or
 39 policies, the provision of qualified readers or interpreters,



1 and other similar accommodations for individuals with
2 disabilities.

3 ~~(n)~~

4 (o) “Religious creed,” “religion,” “religious
5 observance,” “religious belief,” and “creed” include all
6 aspects of religious belief, observance, and practice.

7 ~~(o)~~

8 (p) “Sex” includes, but is not limited to, pregnancy,
9 childbirth, or medical conditions related to pregnancy or
10 childbirth.

11 ~~(p)~~

12 (q) “Sexual orientation” means heterosexuality,
13 homosexuality, and bisexuality.

14 (r) “Supervisor” means any individual having the
15 authority, in the interest of the employer, to hire,
16 transfer, suspend, lay off, recall, promote, discharge,
17 assign, reward, or discipline other employees, or the
18 responsibility to direct them, or to adjust their grievances,
19 or effectively to recommend that action, if, in connection
20 with the foregoing, the exercise of that authority is not of
21 a merely routine or clerical nature, but requires the use
22 of independent judgment.

23 (s) “Undue hardship” means an action requiring
24 significant difficulty or expense, when considered in light
25 of the following factors: (1) the nature and cost of the
26 accommodation needed, (2) the overall financial
27 resources of the facilities involved in the provision of the
28 reasonable accommodations, the number of persons
29 employed at the facility, and the effect on expenses and
30 resources or the impact otherwise of these
31 accommodations upon the operation of the facility, (3)
32 the overall financial resources of the covered entity, the
33 overall size of the business of a covered entity with
34 respect to the number of employees, and the number,
35 type, and location of its facilities, (4) the type of
36 operations, including the composition, structure, and
37 functions of the work force of the entity, and (5) the
38 geographic separateness, administrative, or fiscal
39 relationship of the facility or facilities.



1 SEC. 4. Section 12930 of the Government Code is
2 amended to read:

3 12930. The department shall have the following
4 functions, powers, and duties:

5 (a) To establish and maintain a principal office and
6 any other offices within the state as are necessary to carry
7 out the purposes of this part.

8 (b) To meet and function at any place within the state.

9 (c) To appoint attorneys, investigators, conciliators,
10 and other employees as it may deem necessary, fix their
11 compensation within the limitations provided by law, and
12 prescribe their duties.

13 (d) To obtain upon request and utilize the services of
14 all governmental departments and agencies and, in
15 addition, with respect to housing discrimination, of
16 conciliation councils.

17 (e) To adopt, promulgate, amend, and rescind suitable
18 rules and regulations to carry out the functions and duties
19 of the department pursuant to this part.

20 (f) (1) To receive, investigate, and conciliate
21 complaints alleging practices made unlawful pursuant to
22 Chapter 6 (commencing with Section 12940).

23 (2) To receive, investigate, and conciliate complaints
24 alleging a violation of Section 51 or 51.7 of the Civil Code.
25 The remedies and procedures of this part shall be
26 independent of any other remedy or procedure that
27 might apply.

28 (g) In connection with any matter under investigation
29 or in question before the department pursuant to a
30 complaint filed under Section 12960, 12961, or 12980:

31 (1) To issue subpoenas to require the attendance and
32 testimony of witnesses and the production of books,
33 records, documents, and physical materials.

34 (2) To administer oaths, examine witnesses under oath
35 and take evidence, and take depositions and affidavits.

36 (3) To issue written interrogatories.

37 (4) To request the production for inspection and
38 copying of books, records, documents, and physical
39 materials.

1 (5) To petition the superior courts to compel the
2 appearance and testimony of witnesses, the production of
3 books, records, documents, and physical materials, and
4 the answering of interrogatories.

5 (h) To issue accusations pursuant to Section 12965 or
6 12981 and to prosecute those accusations before the
7 commission.

8 (i) To issue those publications and those results of
9 investigations and research as in its judgment will tend to
10 promote good will and minimize or eliminate
11 discrimination in employment on the bases enumerated
12 in this part and discrimination in housing because of race,
13 religious creed, color, sex, marital status, national origin,
14 ancestry, familial status, disability, or sexual orientation.

15 (j) To investigate, approve, certify, decertify, monitor,
16 and enforce nondiscrimination programs proposed by a
17 contractor to be engaged in pursuant to Section 12990.

18 (k) To render annually to the Governor and to the
19 Legislature a written report of its activities and of its
20 recommendations.

21 *SEC. 4.5. Section 12930 of the Government Code is*
22 *amended to read:*

23 12930. The department shall have the following
24 functions, powers, and duties:

25 (a) To establish and maintain a principal office and
26 any other offices within the state as are necessary to carry
27 out the purposes of this part.

28 (b) To meet and function at any place within the state.

29 (c) To appoint attorneys, investigators, conciliators,
30 and other employees as it may deem necessary, fix their
31 compensation within the limitations provided by law, and
32 prescribe their duties.

33 (d) To obtain upon request and utilize the services of
34 all governmental departments and agencies and, in
35 addition, with respect to housing discrimination, of
36 conciliation councils.

37 (e) To adopt, promulgate, amend, and rescind suitable
38 rules and regulations to carry out the functions and duties
39 of the department pursuant to this part.

1 (f) (1) To receive, investigate, and conciliate
2 complaints alleging practices made unlawful pursuant to
3 Chapter 6 (commencing with Section 12940).

4 (2) To receive, investigate, and conciliate complaints
5 alleging a violation of Section 51 ~~or~~, 51.5, 51.7, 54, 54.1, or
6 54.2 of the Civil Code. The remedies and procedures of
7 this part shall be independent of any other remedy or
8 procedure that might apply.

9 (g) In connection with any matter under investigation
10 or in question before the department pursuant to a
11 complaint filed under Section 12960, 12961, or 12980:

12 (1) To issue subpoenas to require the attendance and
13 testimony of witnesses and the production of books,
14 records, documents, and physical materials.

15 (2) To administer oaths, examine witnesses under oath
16 and take evidence, and take depositions and affidavits.

17 (3) To issue written interrogatories.

18 (4) To request the production for inspection and
19 copying of books, records, documents, and physical
20 materials.

21 (5) To petition the superior courts to compel the
22 appearance and testimony of witnesses, the production of
23 books, records, documents, and physical materials, and
24 the answering of interrogatories.

25 (h) To issue accusations pursuant to Section 12965 or
26 12981 and to prosecute those accusations before the
27 commission.

28 (i) To issue those publications and those results of
29 investigations and research as in its judgment will tend to
30 promote good will and minimize or eliminate
31 discrimination in employment on the bases enumerated
32 in this part and discrimination in housing because of race,
33 religious creed, color, sex, marital status, national origin,
34 ancestry, familial status, ~~or~~ disability, or sexual
35 orientation.

36 (j) To investigate, approve, certify, decertify, monitor,
37 and enforce nondiscrimination programs proposed by a
38 contractor to be engaged in pursuant to Section 12990.

1 (k) To render annually to the Governor and to the
2 Legislature a written report of its activities and of its
3 recommendations.

4 SEC. 5. Section 12931 of the Government Code is
5 amended to read:

6 12931. The department may also provide assistance to
7 communities and persons therein in resolving disputes,
8 disagreements, or difficulties relating to discriminatory
9 practices based on race, religious creed, color, national
10 origin, ancestry, physical disability, mental disability,
11 medical condition, marital status, sex, familial status, age,
12 or sexual orientation that impair the rights of persons in
13 those communities under the Constitution or laws of the
14 United States or of this state. The services of the
15 department may be made available in cases of these
16 disputes, disagreements, or difficulties only when, in its
17 judgment, peaceful relations among the citizens of the
18 community involved are threatened thereby. The
19 department's services are to be made available only upon
20 the request of an appropriate state or local public body,
21 or upon the request of any person directly affected by any
22 such dispute, disagreement, or difficulty.

23 The assistance of the department pursuant to this
24 section shall be limited to endeavors at investigation,
25 conference, conciliation, and persuasion.

26 SEC. 6. Section 12935 of the Government Code is
27 amended to read:

28 12935. The commission shall have the following
29 functions, powers, and duties:

30 (a) To adopt, promulgate, amend, and rescind suitable
31 rules, regulations, and standards (1) to interpret,
32 implement, and apply all provisions of this part, (2) to
33 regulate the conduct of hearings held pursuant to
34 Sections 12967 and 12980, and (3) to carry out all other
35 functions and duties of the commission pursuant to this
36 part.

37 (b) To conduct hearings pursuant to Sections 12967
38 and 12981.

39 (c) To establish and maintain a principal office within
40 the state.

1 (d) To meet and function at any place within the state.

2 (e) To appoint an executive secretary, and any
3 attorneys and other employees as it may deem necessary,
4 fix their compensation within the limitations provided by
5 law, and prescribe their duties.

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

11 (g) To create or provide financial or technical
12 assistance to any advisory agencies and conciliation
13 councils, local or otherwise, as in its judgment will aid in
14 effectuating the purposes of this part, and to empower
15 them to study the problems of discrimination in all or
16 specific fields of human relationships or in particular
17 instances of employment discrimination on the bases
18 enumerated in this part or in specific instances of housing
19 discrimination because of race, religious creed, color,
20 national origin, ancestry, familial status, disability, marital
21 status, sex, or sexual orientation and to foster, through
22 community effort or otherwise, good will, cooperation,
23 and conciliation among the groups and elements of the
24 population of the state and to make recommendations to
25 the commission for the development of policies and
26 procedures in general. These advisory agencies and
27 conciliation councils shall be composed of representative
28 citizens, serving without pay.

29 (h) With respect to findings and orders made pursuant
30 to this part, to establish a system of published opinions
31 that shall serve as precedent in interpreting and applying
32 the provisions of this part. Commission findings, orders,
33 and opinions in an adjudicative proceeding are subject to
34 Section 11425.60.

35 (i) To issue publications and results of inquiries and
36 research that in its judgment will tend to promote good
37 will and minimize or eliminate unlawful discrimination.
38 These publications shall include an annual report to the
39 Governor and the Legislature of its activities and
40 recommendations.

(j) Notwithstanding Sections 11370.3 and 11502, to appoint hearing officers, as it may deem necessary, to conduct hearings. Each hearing officer shall possess the qualifications established by the State Personnel Board for the particular class of position involved.

SEC. 7. Section 12940 of the Government Code is amended to read:

12940. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee with a physical or mental disability, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee with a physical or mental disability, where the employee, because of his or her physical or mental disability, is unable to perform his or her essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger his or her health or safety or the health and safety of others even with reasonable accommodations.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger the employee's health

1 or safety or the health or safety of others even with
2 reasonable accommodations. Nothing in this part shall
3 subject an employer to any legal liability resulting from
4 the refusal to employ or the discharge of an employee
5 who, because of the employee's medical condition, is
6 unable to perform his or her essential duties, or cannot
7 perform those duties in a manner that would not
8 endanger the employee's health or safety or the health or
9 safety of others even with reasonable accommodations.

10 (3) Nothing in this part relating to discrimination on
11 account of marital status shall do either of the following:

12 (A) Affect the right of an employer to reasonably
13 regulate, for reasons of supervision, safety, security, or
14 morale, the working of spouses in the same department,
15 division, or facility, consistent with the rules and
16 regulations adopted by the commission.

17 (B) Prohibit bona fide health plans from providing
18 additional or greater benefits to employees with
19 dependents than to those employees without or with
20 fewer dependents.

21 (4) Nothing in this part relating to discrimination on
22 account of sex shall affect the right of an employer to use
23 veteran status as a factor in employee selection or to give
24 special consideration to Vietnam era veterans.

25 (b) For a labor organization, because of the race,
26 religious creed, color, national origin, ancestry, physical
27 disability, mental disability, medical condition, marital
28 status, sex, or sexual orientation of any person, to exclude,
29 expel or restrict from its membership the person, or to
30 provide only second-class or segregated membership or
31 to discriminate against any person because of the race,
32 religious creed, color, national origin, ancestry, physical
33 disability, mental disability, medical condition, marital
34 status, sex, or sexual orientation of the person in the
35 election of officers of the labor organization or in the
36 selection of the labor organization's staff or to
37 discriminate in any way against any of its members or
38 against any employer or against any person employed by
39 an employer.

1 (c) For any person to discriminate against any person
2 in the selection or training of that person in any
3 apprenticeship training program or any other training
4 program leading to employment because of the race,
5 religious creed, color, national origin, ancestry, physical
6 disability, mental disability, medical condition, marital
7 status, sex, or sexual orientation of the person
8 discriminated against.

9 (d) For any employer or employment agency, unless
10 specifically acting in accordance with federal equal
11 employment opportunity guidelines and regulations
12 approved by the commission, to print or circulate or
13 cause to be printed or circulated any publication, or to
14 make any non-job-related inquiry, either verbal or
15 through use of an application form, that expresses,
16 directly or indirectly, any limitation, specification, or
17 discrimination as to race, religious creed, color, national
18 origin, ancestry, physical disability, mental disability,
19 medical condition, marital status, sex, or sexual
20 orientation, or any intent to make any such limitation,
21 specification, or discrimination. Except as provided in the
22 Americans with Disabilities Act of 1990 (Public Law
23 101-336) and the regulations adopted pursuant thereto,
24 nothing in this subdivision shall prohibit any employer
25 from making, in connection with prospective
26 employment, an inquiry as to, or a request for information
27 regarding, the physical fitness, medical condition,
28 physical condition, or medical history of applicants if that
29 inquiry or request for information is directly related and
30 pertinent to the position the applicant is applying for or
31 directly related to a determination of whether the
32 applicant would endanger his or her health or safety or
33 the health or safety of others.

34 (e) For any employer, labor organization, or
35 employment agency to harass, discharge, expel, or
36 otherwise discriminate against any person because the
37 person has made a report pursuant to Section 11161.8 of
38 the Penal Code that prohibits retaliation against hospital
39 employees who report suspected patient abuse by health
40 facilities or community care facilities.



1 (f) For any employer, labor organization,
2 employment agency, or person to discharge, expel, or
3 otherwise discriminate against any person because the
4 person has opposed any practices forbidden under this
5 part or because the person has filed a complaint, testified,
6 or assisted in any proceeding under this part.

7 (g) For any person to aid, abet, incite, compel, or
8 coerce the doing of any of the acts forbidden under this
9 part, or to attempt to do so.

10 (h) (1) For an employer, labor organization,
11 employment agency, apprenticeship training program or
12 any training program leading to employment, or any
13 other person, because of race, religious creed, color,
14 national origin, ancestry, physical disability, mental
15 disability, medical condition, marital status, sex, age, or
16 sexual orientation, to harass an employee or applicant.
17 Harassment of an employee or applicant by an employee
18 other than an agent or supervisor shall be unlawful if the
19 entity, or its agents or supervisors, knows or should have
20 known of this conduct and fails to take immediate and
21 appropriate corrective action. An entity shall take all
22 reasonable steps to prevent harassment from occurring.
23 Loss of tangible job benefits shall not be necessary in
24 order to establish harassment.

25 (2) The provisions of this subdivision *is are* declaratory
26 of existing law, except for the new duties imposed on
27 employers with regard to harassment.

28 (3) (A) For purposes of this subdivision only,
29 “employer” means any person regularly employing one
30 or more persons, or any person acting as an agent of an
31 employer, directly or indirectly, the state, or any political
32 or civil subdivision of the state, and cities.

33 (B) Notwithstanding subparagraph (A), for purposes
34 of this subdivision, “employer” does not include a
35 religious association or corporation not organized for
36 private profit.

37 (C) For purposes of this subdivision, “harassment”
38 because of sex includes sexual harassment, gender
39 harassment, and harassment based on pregnancy,
40 childbirth, or related medical conditions.

(4) For other types of discrimination as enumerated in subdivision (a), an employer remains as defined in subdivision (d) of Section 12926.

(5) Nothing contained in this subdivision shall be construed to apply the definition of employer found in this subdivision to subdivision (a).

(i) For an employer, labor organization, employment agency, apprenticeship training program, or any training program leading to employment, to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

(j) For an employer or other entity covered by this part to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment or to bar or to discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of a conflict between the person's religious belief or observance and any employment requirement, unless the employer or other entity covered by this part demonstrates that it has explored any available reasonable alternative means of accommodating the religious belief or observance, including the possibilities of excusing the person from those duties that conflict with his or her religious belief or observance or permitting those duties to be performed at another time or by another person, but is unable to reasonably accommodate the religious belief or observance without undue hardship on the conduct of the business of the employer or other entity covered by this part. Religious belief or observance, as used in this section, includes, but is not limited to, observance of a Sabbath or other religious holy day or days, and reasonable time necessary for travel prior and subsequent to a religious observance.

(k) For an employer or other entity covered by this part to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. Nothing in this subdivision or in paragraph (1)

1 or (2) of subdivision (a) shall be construed to require an
2 accommodation that is demonstrated by the employer or
3 other covered entity to produce undue hardship to its
4 operation.

5 (l) Initial application of this section to discrimination
6 by employers on the basis of mental disability shall be in
7 accordance with the following schedule:

8 (1) Commencing January 1, 1993, for employers with
9 25 or more employees, the state, and its municipalities
10 and political subdivisions.

11 (2) Commencing July 26, 1994, for all other employers
12 specified in paragraph (2) of the subdivision of Section
13 12926 that defines "employer."

14 *SEC. 7.5. Section 12940 of the Government Code is*
15 *amended to read:*

16 12940. It shall be an unlawful employment practice,
17 unless based upon a bona fide occupational qualification,
18 or, except where based upon applicable security
19 regulations established by the United States or the State
20 of California:

21 (a) For an employer, because of the race, religious
22 creed, color, national origin, ancestry, physical disability,
23 mental disability, medical condition, marital status, ~~or~~
24 sex, *or sexual orientation* of any person, to refuse to hire
25 or employ the person or to refuse to select the person for
26 a training program leading to employment, or to bar or
27 to discharge the person from employment or from a
28 training program leading to employment, or to
29 discriminate against the person in compensation or in
30 terms, conditions, or privileges of employment.

31 (1) ~~Nothing in this~~ This part ~~shall~~ *does not* prohibit an
32 employer from refusing to hire or discharging an
33 employee with a physical or mental disability, or subject
34 an employer to any legal liability resulting from the
35 refusal to employ or the discharge of an employee with
36 a physical or mental disability, where the employee,
37 because of his or her physical or mental disability, is
38 unable to perform his or her essential duties even with
39 reasonable accommodations, or cannot perform those
40 duties in a manner that would not endanger his or her

1 health or safety or the health ~~and~~ or safety of others even
2 with reasonable accommodations.

3 (2) ~~Nothing in this~~ This part ~~shall~~ *does not* prohibit an
4 employer from refusing to hire or discharging an
5 employee who, because of the employee's medical
6 condition, is unable to perform his or her essential duties
7 even with reasonable accommodations, or cannot
8 perform those duties in a manner that would not
9 endanger the employee's health or safety or the health or
10 safety of others even with reasonable accommodations.
11 Nothing in this part shall subject an employer to any legal
12 liability resulting from the refusal to employ or the
13 discharge of an employee who, because of the employee's
14 medical condition, is unable to perform his or her
15 essential duties, or cannot perform those duties in a
16 manner that would not endanger the employee's health
17 or safety or the health or safety of others even with
18 reasonable accommodations.

19 (3) Nothing in this part relating to discrimination on
20 account of marital status shall do either of the following:

21 (A) Affect the right of an employer to reasonably
22 regulate, for reasons of supervision, safety, security, or
23 morale, the working of spouses in the same department,
24 division, or facility, consistent with the rules and
25 regulations adopted by the commission.

26 (B) Prohibit bona fide health plans from providing
27 additional or greater benefits to employees with
28 dependents than to those employees without or with
29 fewer dependents.

30 (4) Nothing in this part relating to discrimination on
31 account of sex shall affect the right of an employer to use
32 veteran status as a factor in employee selection or to give
33 special consideration to ~~Vietnam—era~~ *Vietnam-era*
34 veterans.

35 (b) For a labor organization, because of the race,
36 religious creed, color, national origin, ancestry, physical
37 disability, mental disability, medical condition, marital
38 status, ~~or~~ sex, *or sexual orientation* of any person, to
39 exclude, expel or restrict from its membership the
40 person, or to provide only second-class or segregated



1 membership or to discriminate against any person
2 because of the race, religious creed, color, national origin,
3 ancestry, physical disability, mental disability, medical
4 condition, marital status, ~~or~~ sex, *or sexual orientation* of
5 the person in the election of officers of the labor
6 organization or in the selection of the labor organization's
7 staff or to discriminate in any way against any of its
8 members or against any employer or against any person
9 employed by an employer.

10 (c) For any person to discriminate against any person
11 in the selection or training of that person in any
12 apprenticeship training program or any other training
13 program leading to employment because of the race,
14 religious creed, color, national origin, ancestry, physical
15 disability, mental disability, medical condition, marital
16 status, ~~or~~ sex, *or sexual orientation* of the person
17 discriminated against.

18 (d) For any employer or employment agency, unless
19 specifically acting in accordance with federal equal
20 employment opportunity guidelines and regulations
21 approved by the commission, to print or circulate or
22 cause to be printed or circulated any publication, or to
23 make any non-job-related inquiry *of an employee or*
24 *applicant*, either verbal or through use of an application
25 form, ~~which~~ *that* expresses, directly or indirectly, any
26 limitation, specification, or discrimination as to race,
27 religious creed, color, national origin, ancestry, physical
28 disability, mental disability, medical condition, marital
29 status, ~~or~~ sex, *or sexual orientation*, or any intent to make
30 ~~that any such~~ limitation, specification or discrimination.
31 Except as provided in the Americans with Disabilities Act
32 of 1990 (Public Law 101-336) and the regulations adopted
33 pursuant thereto, nothing in this subdivision shall
34 prohibit any employer from making, in connection with
35 prospective employment, an inquiry as to, or a request for
36 information regarding, the physical fitness, medical
37 condition, physical condition, or medical history of
38 applicants if that inquiry or request for information is
39 directly related and pertinent to the position the
40 applicant is applying for or directly related to a

1 determination of whether the applicant would endanger
2 his or her health or safety or the health or safety of others.

3 (e) For any employer, labor organization, or
4 employment agency to harass, discharge, expel, or
5 otherwise discriminate against any person because the
6 person has made a report pursuant to Section 11161.8 of
7 the Penal Code,~~which~~ *that* prohibits retaliation against
8 hospital employees who report suspected patient abuse
9 by health facilities or community care facilities.

10 (f) For any employer, labor organization,
11 employment agency, or person to discharge, expel, or
12 otherwise discriminate against any person because the
13 person has opposed any practices forbidden under this
14 part or because the person has filed a complaint, testified,
15 or assisted in any proceeding under this part.

16 (g) For any person to aid, abet, incite, compel, or
17 coerce the doing of any of the acts forbidden under this
18 part, or to attempt to do so.

19 (h) (1) For an employer, labor organization,
20 employment agency, apprenticeship training program or
21 any training program leading to employment, or any
22 other person, because of race, religious creed, color,
23 national origin, ancestry, physical disability, mental
24 disability, medical condition, marital status, sex, ~~or~~ age, *or*
25 *sexual orientation*, to harass an employee ~~or~~, *an*
26 applicant, *or a person providing services pursuant to a*
27 *contract*. Harassment of an employee ~~or~~, *an* applicant, *or*
28 *a person providing services pursuant to a contract* by an
29 employee other than an agent or supervisor shall be
30 unlawful if the entity, or its agents or supervisors, knows
31 or should have known of this conduct and fails to take
32 immediate and appropriate corrective action. An entity
33 shall take all reasonable steps to prevent harassment from
34 occurring. Loss of tangible job benefits shall not be
35 necessary in order to establish harassment.

36 (2) ~~This~~ *The provisions of this* subdivision ~~is~~ *are*
37 declaratory of existing law, except for the new duties
38 imposed on employers with regard to harassment.

39 (3) (A) For purposes of this subdivision only,
40 “employer” means any person regularly employing one

1 or more persons *or regularly receiving the services of one*
2 *or more persons providing services pursuant to a*
3 *contract*, or any person acting as an agent of an employer,
4 directly or indirectly, the state, or any political or civil
5 subdivision ~~thereof of the state~~, and cities. *The definition*
6 *of “employer” in subdivision (d) of Section 12926 applies*
7 *to all provisions of this section other than this subdivision.*

8 (B) Notwithstanding subparagraph (A), for purposes
9 of this subdivision, “employer” does not include a
10 religious association or corporation not organized for
11 private profit.

12 (C) For purposes of this subdivision, “harassment”
13 because of sex includes sexual harassment, gender
14 harassment, and harassment based on pregnancy,
15 childbirth, or related medical conditions.

16 ~~(4) For other types of discrimination as enumerated in~~
17 ~~subdivision (a), an employer remains as defined in~~
18 ~~subdivision (d) of Section 12926.~~

19 ~~(5) Nothing contained in this subdivision shall be~~
20 ~~construed to apply the definition of employer found in~~
21 ~~this subdivision to subdivision (a) purposes of this~~
22 ~~subdivision, “a person providing services pursuant to a~~
23 ~~contract” means a person who meets all of the following~~
24 ~~criteria:~~

25 (A) *The person has the right to control the*
26 *performance of the contract for services and discretion as*
27 *to the manner of performance.*

28 (B) *The person is customarily engaged in an*
29 *independently established business.*

30 (C) *The person has control over the time and place the*
31 *work is performed, supplies the tools and instruments*
32 *used in the work, and performs work that requires a*
33 *particular skill not ordinarily used in the course of the*
34 *employer’s work.*

35 (i) For an employer, labor organization, employment
36 agency, apprenticeship training program, or any training
37 program leading to employment, to fail to take all
38 reasonable steps necessary to prevent discrimination and
39 harassment from occurring.

1 (j) For an employer or other entity covered by this
2 part to refuse to hire or employ a person or to refuse to
3 select a person for a training program leading to
4 employment or to bar or to discharge a person from
5 employment or from a training program leading to
6 employment, or to discriminate against a person in
7 compensation or in terms, conditions, or privileges of
8 employment because of a conflict between the person's
9 religious belief or observance and any employment
10 requirement, unless the employer or other entity
11 covered by this part demonstrates that it has explored any
12 available reasonable alternative means of
13 accommodating the religious belief or observance,
14 including the possibilities of excusing the person from
15 those duties that conflict with his or her religious belief or
16 observance or permitting those duties to be performed at
17 another time or by another person, but is unable to
18 reasonably accommodate the religious belief or
19 observance without undue hardship on the conduct of the
20 business of the employer or other entity covered by this
21 part. Religious belief or observance, as used in this
22 section, includes, but is not limited to, observance of a
23 Sabbath or other religious holy day or days, and
24 reasonable time necessary for travel prior and subsequent
25 to a religious observance.

26 (k) For an employer or other entity covered by this
27 part to fail to make reasonable accommodation for the
28 known physical or mental disability of an applicant or
29 employee. Nothing in this subdivision or in paragraph (1)
30 or (2) of subdivision (a) shall be construed to require an
31 accommodation that is demonstrated by the employer or
32 other covered entity to produce undue hardship to its
33 operation.

34 ~~(l) Initial application of this section to discrimination~~
35 ~~by employers on the basis of mental disability shall be in~~
36 ~~accordance with the following schedule:~~

37 ~~(1) Commencing January 1, 1993, for employers with~~
38 ~~25 or more employees, the state, and its municipalities~~
39 ~~and political subdivisions.~~

1 ~~(2) Commencing July 26, 1994, for all other employers~~
2 ~~specified in paragraph (2) of the subdivision of Section~~
3 ~~12926 that defines “employer.” For an employer or other~~
4 ~~entity covered by this part, to subject, directly or~~
5 ~~indirectly, any employee, applicant, or other person to a~~
6 ~~test for the presence of a genetic characteristic.~~

7 SEC. 8. Section 12944 of the Government Code is
8 amended to read:

9 12944. (a) It shall be unlawful for a licensing board to
10 require any examination or establish any other
11 qualification for licensing that has an adverse impact on
12 any class by virtue of its race, creed, color, national origin
13 or ancestry, sex, age, medical condition, physical
14 disability, mental disability, or sexual orientation, unless
15 the practice can be demonstrated to be job related.

16 Where the commission, after hearing, determines that
17 an examination is unlawful under this subdivision, the
18 licensing board may continue to use and rely on the
19 examination until such time as judicial review by the
20 superior court of the determination is exhausted.

21 If an examination or other qualification for licensing is
22 determined to be unlawful under this section, that
23 determination shall not void, limit, repeal, or otherwise
24 affect any right, privilege, status, or responsibility
25 previously conferred upon any person by the
26 examination or by a license issued in reliance on the
27 examination or qualification.

28 (b) It shall be unlawful for a licensing board to fail or
29 refuse to make reasonable accommodation to an
30 individual’s mental or physical disability or medical
31 condition.

32 (c) It shall be unlawful for any licensing board, unless
33 specifically acting in accordance with federal equal
34 employment opportunity guidelines or regulations
35 approved by the commission, to print or circulate or
36 cause to be printed or circulated any publication, or to
37 make any non-job-related inquiry, either verbal or
38 through use of an application form, which expresses,
39 directly or indirectly, any limitation, specification, or
40 discrimination as to race, religious creed, color, national

1 origin, ancestry, physical disability, mental disability,
2 medical condition, sex, age, or sexual orientation or any
3 intent to make any such limitation, specification, or
4 discrimination. Nothing in this subdivision shall prohibit
5 any licensing board from making, in connection with
6 prospective licensure or certification, an inquiry as to, or
7 a request for information regarding, the physical fitness
8 of applicants if that inquiry or request for information is
9 directly related and pertinent to the license or the
10 licensed position the applicant is applying for. Nothing in
11 this subdivision shall prohibit any licensing board, in
12 connection with prospective examinations, licensure, or
13 certification, from inviting individuals with physical or
14 mental disabilities to request reasonable
15 accommodations or from making inquiries related to
16 reasonable accommodations.

17 (d) It is unlawful for a licensing board to discriminate
18 against any person because the person has filed a
19 complaint, testified, or assisted in any proceeding under
20 this part.

21 (e) It is unlawful for any licensing board to fail to keep
22 records of applications for licensing or certification for a
23 period of two years following the date of receipt of the
24 applications.

25 (f) As used in this section, “licensing board” means any
26 state board, agency, or authority in the State and
27 Consumer Services Agency that has the authority to grant
28 licenses or certificates which are prerequisites to
29 employment eligibility or professional status.

30 SEC. 9. Section 12955 of the Government Code is
31 amended to read:

32 12955. It shall be unlawful:

33 (a) For the owner of any housing accommodation to
34 discriminate against any person because of the race,
35 color, religion, sex, sexual orientation, marital status,
36 national origin, ancestry, familial status, or disability of
37 that person.

38 (b) For the owner of any housing accommodation to
39 make or to cause to be made any written or oral inquiry
40 concerning the race, color, religion, sex, sexual

1 orientation, marital status, national origin, ancestry,
2 familial status, or disability of any person seeking to
3 purchase, rent or lease any housing accommodation.

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

12 (d) For any person subject to the provisions of Section
13 51 of the Civil Code, as that section applies to housing
14 accommodations, to discriminate against any person on
15 the basis of sex, sexual orientation, color, race, religion,
16 ancestry, national origin, familial status, marital status,
17 disability, or on any other basis prohibited by that section.

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

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

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

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

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

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

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

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

SEC. 9.1. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) 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, or disability of that person.

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

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

15 (d) For any person subject to the provisions of Section
16 51 of the Civil Code, as that section applies to housing
17 accommodations, to discriminate against any person on
18 the basis of sex, *sexual orientation*, color, race, religion,
19 ancestry, national origin, familial status, marital status,
20 disability, or on any other basis prohibited by that section.

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

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

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

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

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

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

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

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

35 (m) *As used in this section, "race, color, religion, sex,*
36 *sexual orientation, marital status, national origin,*
37 *ancestry, familial status, or disability" includes a*
38 *perception that the person has any of those*
39 *characteristics or that the person is associated with a*



1 *person who has, or is perceived to have, any of those*
2 *characteristics.*

3 *SEC. 9.2. Section 12955 of the Government Code is*
4 *amended to read:*

5 12955. It shall be unlawful:

6 (a) For the owner of any housing accommodation to
7 discriminate against any person because of the race,
8 color, religion, sex, *sexual orientation*, marital status,
9 national origin, ancestry, familial status, *source of*
10 *income*, or disability of that person.

11 (b) For the owner of any housing accommodation to
12 make or to cause to be made any written or oral inquiry
13 concerning the race, color, religion, sex, *sexual*
14 *orientation*, marital status, national origin, ancestry,
15 familial status, or disability of any person seeking to
16 purchase, rent or lease any housing accommodation.

17 (c) For any person to make, print, or publish, or cause
18 to be made, printed, or published any notice, statement,
19 or advertisement, with respect to the sale or rental of a
20 housing accommodation that indicates any preference,
21 limitation, or discrimination based on race, color, religion,
22 sex, *sexual orientation*, marital status, national origin,
23 ancestry, familial status, *source of income*, or disability or
24 an intention to make any such preference, limitation, or
25 discrimination.

26 (d) For any person subject to the provisions of Section
27 51 of the Civil Code, as that section applies to housing
28 accommodations, to discriminate against any person on
29 the basis of sex, *sexual orientation*, color, race, religion,
30 ancestry, national origin, familial status, marital status,
31 disability, *source of income*, or on any other basis
32 prohibited by that section.

33 (e) For any person, bank, mortgage company or other
34 financial institution that provides financial assistance for
35 the purchase, organization, or construction of any
36 housing accommodation to discriminate against any
37 person or group of persons because of the race, color,
38 religion, sex, *sexual orientation*, marital status, national
39 origin, ancestry, familial status, *source of income*, or

1 disability in the terms, conditions, or privileges relating to
2 the obtaining or use of that financial assistance.

3 (f) For any owner of housing accommodations to
4 harass, evict, or otherwise discriminate against any
5 person in the sale or rental of housing accommodations
6 when the owner's dominant purpose is retaliation against
7 a person who has opposed practices unlawful under this
8 section, informed law enforcement agencies of practices
9 believed unlawful under this section, has testified or
10 assisted in any proceeding under this part, or has aided or
11 encouraged a person to exercise or enjoy the rights
12 secured by this part. Nothing herein is intended to cause
13 or permit the delay of an unlawful detainer action.

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

17 (h) For any person, for profit, to induce any person to
18 sell or rent any dwelling by representations regarding the
19 entry or prospective entry into the neighborhood of a
20 person or persons of a particular race, color, religion, sex,
21 *sexual orientation*, marital status, ancestry, disability,
22 *source of income*, familial status, or national origin.

23 (i) For any person or other organization or entity
24 whose business involves real estate-related transactions to
25 discriminate against any person in making available a
26 transaction, or in the terms and conditions of a
27 transaction, because of race, color, religion, sex, *sexual*
28 *orientation*, marital status, national origin, ancestry,
29 *source of income*, familial status, or disability.

30 (j) To deny a person access to, or membership or
31 participation in, a multiple listing service, real estate
32 brokerage organization, or other service because of race,
33 color, religion, sex, *sexual orientation*, marital status,
34 ancestry, disability, familial status, *source of income*, or
35 national origin.

36 (k) To otherwise make unavailable or deny a dwelling
37 based on discrimination because of race, color, religion,
38 sex, *sexual orientation*, familial status, *source of income*,
39 disability, or national origin.



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

(m) *To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.*

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

(o) (1) *For the purposes of this section, “source of income” means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.*

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

(p) *This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.*

SEC. 9.3. *Section 12955 of the Government Code is amended to read:*

12955. It shall be unlawful:

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

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

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

15 (d) For any person subject to the provisions of Section
16 51 of the Civil Code, as that section applies to housing
17 accommodations, to discriminate against any person on
18 the basis of sex, *sexual orientation*, color, race, religion,
19 ancestry, national origin, familial status, marital status,
20 disability, or on any other basis prohibited by that section.

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

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

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

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

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

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

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

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

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

1 SEC. 9.4. Section 12955 of the Government Code is
2 amended to read:

3 12955. It shall be unlawful:

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

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

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

24 (d) For any person subject to the provisions of Section
25 51 of the Civil Code, as that section applies to housing
26 accommodations, to discriminate against any person on
27 the basis of sex, *sexual orientation*, color, race, religion,
28 ancestry, national origin, familial status, marital status,
29 disability, *source of income*, or on any other basis
30 prohibited by that section.

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

1 (f) For any owner of housing accommodations to
2 harass, evict, or otherwise discriminate against any
3 person in the sale or rental of housing accommodations
4 when the owner's dominant purpose is retaliation against
5 a person who has opposed practices unlawful under this
6 section, informed law enforcement agencies of practices
7 believed unlawful under this section, has testified or
8 assisted in any proceeding under this part, or has aided or
9 encouraged a person to exercise or enjoy the rights
10 secured by this part. Nothing herein is intended to cause
11 or permit the delay of an unlawful detainer action.

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

15 (h) For any person, for profit, to induce any person to
16 sell or rent any dwelling by representations regarding the
17 entry or prospective entry into the neighborhood of a
18 person or persons of a particular race, color, religion, sex,
19 *sexual orientation*, marital status, ancestry, disability,
20 *source of income*, familial status, or national origin.

21 (i) For any person or other organization or entity
22 whose business involves real estate-related transactions to
23 discriminate against any person in making available a
24 transaction, or in the terms and conditions of a
25 transaction, because of race, color, religion, sex, *sexual*
26 *orientation*, marital status, national origin, ancestry,
27 *source of income*, familial status, or disability.

28 (j) To deny a person access to, or membership or
29 participation in, a multiple listing service, real estate
30 brokerage organization, or other service because of race,
31 color, religion, sex, *sexual orientation*, marital status,
32 ancestry, disability, familial status, *source of income*, or
33 national origin.

34 (k) To otherwise make unavailable or deny a dwelling
35 based on discrimination because of race, color, religion,
36 sex, *sexual orientation*, familial status, *source of income*,
37 disability, or national origin.

38 (l) To discriminate through public or private land use
39 practices, decisions, and authorizations because of race,
40 color, religion, sex, *sexual orientation*, familial status,

1 marital status, disability, national origin, *source of*
2 *income*, or ancestry. Discrimination includes, but is not
3 limited to, restrictive covenants, zoning laws, denials of
4 use permits, and other actions authorized under the
5 Planning and Zoning Law (Title 7 (commencing with
6 Section 65000)), that make housing opportunities
7 unavailable.

8 *(m) To use a financial or income standard in the rental*
9 *of housing that fails to account for the aggregate income*
10 *of persons residing together or proposing to reside*
11 *together on the same basis as the aggregate income of*
12 *married persons residing together or proposing to reside*
13 *together.*

14 *(n) In instances where there is a government rent*
15 *subsidy, to use a financial or income standard in assessing*
16 *eligibility for the rental of housing that is not based on the*
17 *portion of the rent to be paid by the tenant.*

18 *(o) (1) For the purposes of this section, "source of*
19 *income" means lawful, verifiable income paid directly to*
20 *a tenant or paid to a representative of a tenant.*

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

25 *(p) As used in this section, "race, color, religion, sex,*
26 *sexual orientation, marital status, national origin,*
27 *ancestry, familial status, source of income, or disability"*
28 *includes a perception that the person has any of those*
29 *characteristics or that the person is associated with a*
30 *person who has, or is perceived to have, any of those*
31 *characteristics.*

32 *(q) This section shall remain in effect only until*
33 *January 1, 2005, and as of that date is repealed, unless a*
34 *later enacted statute, that is enacted before January 1,*
35 *2005, deletes or extends that date.*

36 *SEC. 9.5. Section 12955 of the Government Code is*
37 *amended to read:*

38 12955. It shall be unlawful:

39 (a) For the owner of any housing accommodation to
40 discriminate against *or harass* any person because of the

1 race, color, religion, sex, *sexual orientation*, marital status,
2 national origin, ancestry, familial status, or disability of
3 that person.

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

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

18 (d) For any person subject to the provisions of Section
19 51 of the Civil Code, as that section applies to housing
20 accommodations, to discriminate against any person on
21 the basis of sex, *sexual orientation*, color, race, religion,
22 ancestry, national origin, familial status, marital status,
23 disability, or on any other basis prohibited by that section.

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

33 (f) For any owner of housing accommodations to
34 harass, evict, or otherwise discriminate against any
35 person in the sale or rental of housing accommodations
36 when the owner's dominant purpose is retaliation against
37 a person who has opposed practices unlawful under this
38 section, informed law enforcement agencies of practices
39 believed unlawful under this section, has testified or
40 assisted in any proceeding under this part, or has aided or

1 encouraged a person to exercise or enjoy the rights
2 secured by this part. Nothing herein is intended to cause
3 or permit the delay of an unlawful detainer action.

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

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

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

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

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

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

38 *Discrimination under this subdivision also includes the*
39 *existence of a restrictive covenant, regardless of whether*
40 *accompanied by a statement that the restrictive covenant*



1 *is repealed or void. This paragraph shall become*
2 *operative on January 1, 2001.*

3 (m) *As used in this section, "race, color, religion, sex,*
4 *sexual orientation, marital status, national origin,*
5 *ancestry, familial status, or disability" includes a*
6 *perception that the person has any of those*
7 *characteristics or that the person is associated with a*
8 *person who has, or is perceived to have, any of those*
9 *characteristics.*

10 SEC. 9.6. *Section 12955 of the Government Code is*
11 *amended to read:*

12 12955. It shall be unlawful:

13 (a) For the owner of any housing accommodation to
14 discriminate against any person because of the race,
15 color, religion, sex, *sexual orientation*, marital status,
16 national origin, ancestry, familial status, *source of income*,
17 or disability of that person.

18 (b) For the owner of any housing accommodation to
19 make or to cause to be made any written or oral inquiry
20 concerning the race, color, religion, sex, *sexual*
21 *orientation*, marital status, national origin, ancestry,
22 familial status, or disability of any person seeking to
23 purchase, rent or lease any housing accommodation.

24 (c) For any person to make, print, or publish, or cause
25 to be made, printed, or published any notice, statement,
26 or advertisement, with respect to the sale or rental of a
27 housing accommodation that indicates any preference,
28 limitation, or discrimination based on race, color, religion,
29 sex, *sexual orientation*, marital status, national origin,
30 ancestry, familial status, *source of income*, or disability or
31 an intention to make any such preference, limitation, or
32 discrimination.

33 (d) For any person subject to the provisions of Section
34 51 of the Civil Code, as that section applies to housing
35 accommodations, to discriminate against any person on
36 the basis of sex, *sexual orientation*, color, race, religion,
37 ancestry, national origin, familial status, marital status,
38 disability, *source of income*, or on any other basis
39 prohibited by that section.

1 (e) For any person, bank, mortgage company or other
2 financial institution that provides financial assistance for
3 the purchase, organization, or construction of any
4 housing accommodation to discriminate against any
5 person or group of persons because of the race, color,
6 religion, sex, *sexual orientation*, marital status, national
7 origin, ancestry, familial status, *source of income*, or
8 disability in the terms, conditions, or privileges relating to
9 the obtaining or use of that financial assistance.

10 (f) For any owner of housing accommodations to
11 harass, evict, or otherwise discriminate against any
12 person in the sale or rental of housing accommodations
13 when the owner's dominant purpose is retaliation against
14 a person who has opposed practices unlawful under this
15 section, informed law enforcement agencies of practices
16 believed unlawful under this section, has testified or
17 assisted in any proceeding under this part, or has aided or
18 encouraged a person to exercise or enjoy the rights
19 secured by this part. Nothing herein is intended to cause
20 or permit the delay of an unlawful detainer action.

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

24 (h) For any person, for profit, to induce any person to
25 sell or rent any dwelling by representations regarding the
26 entry or prospective entry into the neighborhood of a
27 person or persons of a particular race, color, religion, sex,
28 *sexual orientation*, marital status, ancestry, disability,
29 *source of income*, familial status, or national origin.

30 (i) For any person or other organization or entity
31 whose business involves real estate-related transactions to
32 discriminate against any person in making available a
33 transaction, or in the terms and conditions of a
34 transaction, because of race, color, religion, sex, *sexual*
35 *orientation*, marital status, national origin, ancestry,
36 *source of income*, familial status, or disability.

37 (j) To deny a person access to, or membership or
38 participation in, a multiple listing service, real estate
39 brokerage organization, or other service because of race,
40 color, religion, sex, *sexual orientation*, marital status,



1 ancestry, disability, familial status, *source of income*, or
2 national origin.

3 (k) To otherwise make unavailable or deny a dwelling
4 based on discrimination because of race, color, religion,
5 sex, *sexual orientation*, familial status, *source of income*,
6 disability, or national origin.

7 (l) To discriminate through public or private land use
8 practices, decisions, and authorizations because of race,
9 color, religion, sex, *sexual orientation*, familial status,
10 marital status, disability, national origin, *source of*
11 *income*, or ancestry. Discrimination includes, but is not
12 limited to, restrictive covenants, zoning laws, denials of
13 use permits, and other actions authorized under the
14 Planning and Zoning Law (Title 7 (commencing with
15 Section 65000)), that make housing opportunities
16 unavailable.

17 *Discrimination under this subdivision also includes the*
18 *existence of a restrictive covenant, regardless of whether*
19 *accompanied by a statement that the restrictive covenant*
20 *is repealed or void. This paragraph shall become*
21 *operative on January 1, 2001.*

22 (m) To use a financial or income standard in the rental
23 of housing that fails to account for the aggregate income
24 of persons residing together or proposing to reside
25 together on the same basis as the aggregate income of
26 married persons residing together or proposing to reside
27 together.

28 (n) In instances where there is a government rent
29 subsidy, to use a financial or income standard in assessing
30 eligibility for the rental of housing that is not based on the
31 portion of the rent to be paid by the tenant.

32 (o) (1) For the purposes of this section, “source of
33 income” means lawful, verifiable income paid directly to
34 a tenant or paid to a representative of a tenant.

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

39 (p) This section shall remain in effect only until
40 January 1, 2005, and as of that date is repealed, unless a

1 *later enacted statute, that is enacted before January 1,*
2 *2005, deletes or extends that date.*

3 *SEC. 9.7. Section 12955 of the Government Code is*
4 *amended to read:*

5 12955. It shall be unlawful:

6 (a) For the owner of any housing accommodation to
7 discriminate against *or harass* any person because of the
8 race, color, religion, sex, *sexual orientation*, marital status,
9 national origin, ancestry, familial status, *source of*
10 *income*, or disability of that person.

11 (b) For the owner of any housing accommodation to
12 make or to cause to be made any written or oral inquiry
13 concerning the race, color, religion, sex, *sexual*
14 *orientation*, marital status, national origin, ancestry,
15 familial status, or disability of any person seeking to
16 purchase, rent or lease any housing accommodation.

17 (c) For any person to make, print, or publish, or cause
18 to be made, printed, or published any notice, statement,
19 or advertisement, with respect to the sale or rental of a
20 housing accommodation that indicates any preference,
21 limitation, or discrimination based on race, color, religion,
22 sex, *sexual orientation*, marital status, national origin,
23 ancestry, familial status, *source of income*, or disability or
24 an intention to make any such preference, limitation, or
25 discrimination.

26 (d) For any person subject to the provisions of Section
27 51 of the Civil Code, as that section applies to housing
28 accommodations, to discriminate against any person on
29 the basis of sex, *sexual orientation*, color, race, religion,
30 ancestry, national origin, familial status, marital status,
31 disability, *source of income*, or on any other basis
32 prohibited by that section.

33 (e) For any person, bank, mortgage company or other
34 financial institution that provides financial assistance for
35 the purchase, organization, or construction of any
36 housing accommodation to discriminate against any
37 person or group of persons because of the race, color,
38 religion, sex, *sexual orientation*, marital status, national
39 origin, ancestry, familial status, *source of income*, or

1 disability in the terms, conditions, or privileges relating to
2 the obtaining or use of that financial assistance.

3 (f) For any owner of housing accommodations to
4 harass, evict, or otherwise discriminate against any
5 person in the sale or rental of housing accommodations
6 when the owner's dominant purpose is retaliation against
7 a person who has opposed practices unlawful under this
8 section, informed law enforcement agencies of practices
9 believed unlawful under this section, has testified or
10 assisted in any proceeding under this part, or has aided or
11 encouraged a person to exercise or enjoy the rights
12 secured by this part. Nothing herein is intended to cause
13 or permit the delay of an unlawful detainer action.

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

17 (h) For any person, for profit, to induce any person to
18 sell or rent any dwelling by representations regarding the
19 entry or prospective entry into the neighborhood of a
20 person or persons of a particular race, color, religion, sex,
21 *sexual orientation*, marital status, ancestry, disability,
22 *source of income*, familial status, or national origin.

23 (i) For any person or other organization or entity
24 whose business involves real estate-related transactions to
25 discriminate against any person in making available a
26 transaction, or in the terms and conditions of a
27 transaction, because of race, color, religion, sex, *sexual*
28 *orientation*, marital status, national origin, ancestry,
29 *source of income*, familial status, or disability.

30 (j) To deny a person access to, or membership or
31 participation in, a multiple listing service, real estate
32 brokerage organization, or other service because of race,
33 color, religion, sex, *sexual orientation*, marital status,
34 ancestry, disability, familial status, *source of income*, or
35 national origin.

36 (k) To otherwise make unavailable or deny a dwelling
37 based on discrimination because of race, color, religion,
38 sex, *sexual orientation*, familial status, *source of income*,
39 disability, or national origin.

1 (l) To discriminate through public or private land use
2 practices, decisions, and authorizations because of race,
3 color, religion, sex, *sexual orientation*, familial status,
4 marital status, disability, national origin, *source of*
5 *income*, or ancestry. Discrimination includes, but is not
6 limited to, restrictive covenants, zoning laws, denials of
7 use permits, and other actions authorized under the
8 Planning and Zoning Law (Title 7 (commencing with
9 Section 65000)), that make housing opportunities
10 unavailable.

11 *Discrimination under this subdivision also includes the*
12 *existence of a restrictive covenant, regardless of whether*
13 *accompanied by a statement that the restrictive covenant*
14 *is repealed or void. This paragraph shall become*
15 *operative on January 1, 2001.*

16 (m) As used in this section, “race, color, religion, sex,
17 *sexual orientation*, marital status, national origin,
18 *ancestry*, familial status, *source of income*, or disability”
19 *includes a perception that the person has any of those*
20 *characteristics or that the person is associated with a*
21 *person who has, or is perceived to have, any of those*
22 *characteristics.*

23 (n) To use a financial or income standard in the rental
24 of housing that fails to account for the aggregate income
25 of persons residing together or proposing to reside
26 together on the same basis as the aggregate income of
27 married persons residing together or proposing to reside
28 together.

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

33 (p) (1) For the purposes of this section, “source of
34 income” means lawful, verifiable income paid directly to
35 a tenant or paid to a representative of a tenant.

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

1 (q) This section shall remain in effect only until
2 January 1, 2005, and as of that date is repealed, unless a
3 later enacted statute, that is enacted before January 1,
4 2005, deletes or extends that date.

5 SEC. 9.8. Section 12955 is added to the Government
6 Code, to read:

7 12955. It shall be unlawful:

8 (a) For the owner of any housing accommodation to
9 discriminate against any person because of the race,
10 color, religion, sex, sexual orientation, marital status,
11 national origin, ancestry, familial status, or disability of
12 that person.

13 (b) For the owner of any housing accommodation to
14 make or to cause to be made any written or oral inquiry
15 concerning the race, color, religion, sex, sexual
16 orientation, marital status, national origin, ancestry,
17 familial status, or disability of any person seeking to
18 purchase, rent or lease any housing accommodation.

19 (c) For any person to make, print, or publish, or cause
20 to be made, printed, or published any notice, statement,
21 or advertisement, with respect to the sale or rental of a
22 housing accommodation that indicates any preference,
23 limitation, or discrimination based on race, color, religion,
24 sex, sexual orientation, marital status, national origin,
25 ancestry, familial status, or disability or an intention to
26 make any such preference, limitation, or discrimination.

27 (d) For any person subject to the provisions of Section
28 51 of the Civil Code, as that section applies to housing
29 accommodations, to discriminate against any person on
30 the basis of sex, sexual orientation, color, race, religion,
31 ancestry, national origin, familial status, marital status,
32 disability, or on any other basis prohibited by that section.

33 (e) For any person, bank, mortgage company or other
34 financial institution that provides financial assistance for
35 the purchase, organization, or construction of any
36 housing accommodation to discriminate against any
37 person or group of persons because of the race, color,
38 religion, sex, sexual orientation, marital status, national
39 origin, ancestry, familial status, or disability in the terms,

1 conditions, or privileges relating to the obtaining or use
2 of that financial assistance.

3 (f) For any owner of housing accommodations to
4 harass, evict, or otherwise discriminate against any
5 person in the sale or rental of housing accommodations
6 when the owner's dominant purpose is retaliation against
7 a person who has opposed practices unlawful under this
8 section, informed law enforcement agencies of practices
9 believed unlawful under this section, has testified or
10 assisted in any proceeding under this part, or has aided or
11 encouraged a person to exercise or enjoy the rights
12 secured by this part. Nothing herein is intended to cause
13 or permit the delay of an unlawful detainer action.

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

17 (h) For any person, for profit, to induce any person to
18 sell or rent any dwelling by representations regarding the
19 entry or prospective entry into the neighborhood of a
20 person or persons of a particular race, color, religion, sex,
21 sexual orientation, marital status, ancestry, disability,
22 familial status, or national origin.

23 (i) For any person or other organization or entity
24 whose business involves real estate-related transactions to
25 discriminate against any person in making available a
26 transaction, or in the terms and conditions of a
27 transaction, because of race, color, religion, sex, sexual
28 orientation, marital status, national origin, ancestry,
29 familial status, or disability.

30 (j) To deny a person access to, or membership or
31 participation in, a multiple listing service, real estate
32 brokerage organization, or other service because of race,
33 color, religion, sex, sexual orientation, marital status,
34 ancestry, disability, familial status, or national origin.

35 (k) To otherwise make unavailable or deny a dwelling
36 based on discrimination because of race, color, religion,
37 sex, sexual orientation, familial status, disability, or
38 national origin.

39 (l) To discriminate through public or private land use
40 practices, decisions, and authorizations because of race,

1 color, religion, sex, sexual orientation, familial status,
2 marital status, disability, national origin, or ancestry.
3 Discrimination includes, but is not limited to, restrictive
4 covenants, zoning laws, denials of use permits, and other
5 actions authorized under the Planning and Zoning Law
6 (Title 7 (commencing with Section 65000)), that make
7 housing opportunities unavailable.

8 (m) This section shall become operative on January 1,
9 2005.

10 SEC. 9.81. Section 12955 is added to the Government
11 Code, to read:

12 12955. It shall be unlawful:

13 (a) For the owner of any housing accommodation to
14 discriminate against or harass any person because of the
15 race, color, religion, sex, sexual orientation, marital status,
16 national origin, ancestry, familial status, or disability of
17 that person.

18 (b) For the owner of any housing accommodation to
19 make or to cause to be made any written or oral inquiry
20 concerning the race, color, religion, sex, sexual
21 orientation, marital status, national origin, ancestry,
22 familial status, or disability of any person seeking to
23 purchase, rent or lease any housing accommodation.

24 (c) For any person to make, print, or publish, or cause
25 to be made, printed, or published any notice, statement,
26 or advertisement, with respect to the sale or rental of a
27 housing accommodation that indicates any preference,
28 limitation, or discrimination based on race, color, religion,
29 sex, sexual orientation, marital status, national origin,
30 ancestry, familial status, or disability or an intention to
31 make any such preference, limitation, or discrimination.

32 (d) For any person subject to the provisions of Section
33 51 of the Civil Code, as that section applies to housing
34 accommodations, to discriminate against any person on
35 the basis of sex, sexual orientation, color, race, religion,
36 ancestry, national origin, familial status, marital status,
37 disability, or on any other basis prohibited by that section.

38 (e) For any person, bank, mortgage company or other
39 financial institution that provides financial assistance for
40 the purchase, organization, or construction of any

1 housing accommodation to discriminate against any
2 person or group of persons because of the race, color,
3 religion, sex, sexual orientation, marital status, national
4 origin, ancestry, familial status, or disability in the terms,
5 conditions, or privileges relating to the obtaining or use
6 of that financial assistance.

7 (f) For any owner of housing accommodations to
8 harass, evict, or otherwise discriminate against any
9 person in the sale or rental of housing accommodations
10 when the owner's dominant purpose is retaliation against
11 a person who has opposed practices unlawful under this
12 section, informed law enforcement agencies of practices
13 believed unlawful under this section, has testified or
14 assisted in any proceeding under this part, or has aided or
15 encouraged a person to exercise or enjoy the rights
16 secured by this part. Nothing herein is intended to cause
17 or permit the delay of an unlawful detainer action.

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

21 (h) For any person, for profit, to induce any person to
22 sell or rent any dwelling by representations regarding the
23 entry or prospective entry into the neighborhood of a
24 person or persons of a particular race, color, religion, sex,
25 sexual orientation, marital status, ancestry, disability,
26 familial status, or national origin.

27 (i) For any person or other organization or entity
28 whose business involves real estate-related transactions to
29 discriminate against any person in making available a
30 transaction, or in the terms and conditions of a
31 transaction, because of race, color, religion, sex, sexual
32 orientation, marital status, national origin, ancestry,
33 familial status, or disability.

34 (j) To deny a person access to, or membership or
35 participation in, a multiple listing service, real estate
36 brokerage organization, or other service because of race,
37 color, religion, sex, sexual orientation, marital status,
38 ancestry, disability, familial status, or national origin.

39 (k) To otherwise make unavailable or deny a dwelling
40 based on discrimination because of race, color, religion,



1 sex, sexual orientation, familial status, disability, or
2 national origin.

3 (l) To discriminate through public or private land use
4 practices, decisions, and authorizations because of race,
5 color, religion, sex, sexual orientation, familial status,
6 marital status, disability, national origin, or ancestry.
7 Discrimination includes, but is not limited to, restrictive
8 covenants, zoning laws, denials of use permits, and other
9 actions authorized under the Planning and Zoning Law
10 (Title 7 (commencing with Section 65000)), that make
11 housing opportunities unavailable.

12 (m) As used in this section, "race, color, religion, sex,
13 sexual orientation, marital status, national origin,
14 ancestry, familial status, or disability" includes a
15 perception that the person has any of those
16 characteristics or that the person is associated with a
17 person who has, or is perceived to have, any of those
18 characteristics.

19 (n) This section shall become operative on January 1,
20 2005.

21 SEC. 9.82. Section 12955 is added to the Government
22 Code, to read:

23 12955. It shall be unlawful:

24 (a) For the owner of any housing accommodation to
25 discriminate against any person because of the race,
26 color, religion, sex, sexual orientation, marital status,
27 national origin, ancestry, familial status, or disability of
28 that person.

29 (b) For the owner of any housing accommodation to
30 make or to cause to be made any written or oral inquiry
31 concerning the race, color, religion, sex, sexual
32 orientation, marital status, national origin, ancestry,
33 familial status, or disability of any person seeking to
34 purchase, rent or lease any housing accommodation.

35 (c) For any person to make, print, or publish, or cause
36 to be made, printed, or published any notice, statement,
37 or advertisement, with respect to the sale or rental of a
38 housing accommodation that indicates any preference,
39 limitation, or discrimination based on race, color, religion,
40 sex, sexual orientation, marital status, national origin,

1 ancestry, familial status, or disability or an intention to
2 make any such preference, limitation, or discrimination.

3 (d) For any person subject to the provisions of Section
4 51 of the Civil Code, as that section applies to housing
5 accommodations, to discriminate against any person on
6 the basis of sex, sexual orientation, color, race, religion,
7 ancestry, national origin, familial status, marital status,
8 disability, or on any other basis prohibited by that section.

9 (e) For any person, bank, mortgage company or other
10 financial institution that provides financial assistance for
11 the purchase, organization, or construction of any
12 housing accommodation to discriminate against any
13 person or group of persons because of the race, color,
14 religion, sex, sexual orientation, marital status, national
15 origin, ancestry, familial status, or disability in the terms,
16 conditions, or privileges relating to the obtaining or use
17 of that financial assistance.

18 (f) For any owner of housing accommodations to
19 harass, evict, or otherwise discriminate against any
20 person in the sale or rental of housing accommodations
21 when the owner's dominant purpose is retaliation against
22 a person who has opposed practices unlawful under this
23 section, informed law enforcement agencies of practices
24 believed unlawful under this section, has testified or
25 assisted in any proceeding under this part, or has aided or
26 encouraged a person to exercise or enjoy the rights
27 secured by this part. Nothing herein is intended to cause
28 or permit the delay of an unlawful detainer action.

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

32 (h) For any person, for profit, to induce any person to
33 sell or rent any dwelling by representations regarding the
34 entry or prospective entry into the neighborhood of a
35 person or persons of a particular race, color, religion, sex,
36 sexual orientation, marital status, ancestry, disability,
37 familial status, or national origin.

38 (i) For any person or other organization or entity
39 whose business involves real estate-related transactions to
40 discriminate against any person in making available a

1 transaction, or in the terms and conditions of a
2 transaction, because of race, color, religion, sex, sexual
3 orientation, marital status, national origin, ancestry,
4 familial status, or disability.

5 (j) To deny a person access to, or membership or
6 participation in, a multiple listing service, real estate
7 brokerage organization, or other service because of race,
8 color, religion, sex, sexual orientation, marital status,
9 ancestry, disability, familial status, or national origin.

10 (k) To otherwise make unavailable or deny a dwelling
11 based on discrimination because of race, color, religion,
12 sex, sexual orientation, familial status, disability, or
13 national origin.

14 (l) To discriminate through public or private land use
15 practices, decisions, and authorizations because of race,
16 color, religion, sex, sexual orientation, familial status,
17 marital status, disability, national origin, or ancestry.
18 Discrimination includes, but is not limited to, restrictive
19 covenants, zoning laws, denials of use permits, and other
20 actions authorized under the Planning and Zoning Law
21 (Title 7 (commencing with Section 65000)), that make
22 housing opportunities unavailable.

23 Discrimination under this subdivision also includes the
24 existence of a restrictive covenant, regardless of whether
25 accompanied by a statement that the restrictive covenant
26 is repealed or void. This paragraph shall become
27 operative on January 1, 2001.

28 (m) This section shall become operative on January 1,
29 2005.

30 SEC. 9.83. Section 12955 is added to the Government
31 Code, to read:

32 12955. It shall be unlawful:

33 (a) For the owner of any housing accommodation to
34 discriminate against or harass any person because of the
35 race, color, religion, sex, sexual orientation, marital status,
36 national origin, ancestry, familial status, or disability of
37 that person.

38 (b) For the owner of any housing accommodation to
39 make or to cause to be made any written or oral inquiry
40 concerning the race, color, religion, sex, sexual

1 orientation, marital status, national origin, ancestry,
2 familial status, or disability of any person seeking to
3 purchase, rent or lease any housing accommodation.

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

12 (d) For any person subject to the provisions of Section
13 51 of the Civil Code, as that section applies to housing
14 accommodations, to discriminate against any person on
15 the basis of sex, sexual orientation, color, race, religion,
16 ancestry, national origin, familial status, marital status,
17 disability, or on any other basis prohibited by that section.

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

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

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



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

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

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

19 (k) To otherwise make unavailable or deny a dwelling
20 based on discrimination because of race, color, religion,
21 sex, sexual orientation, familial status, disability, or
22 national origin.

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

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

37 (m) As used in this section, "race, color, religion, sex,
38 sexual orientation, marital status, national origin,
39 ancestry, familial status, or disability" includes a
40 perception that the person has any of those

1 *characteristics or that the person is associated with a*
2 *person who has, or is perceived to have, any of those*
3 *characteristics.*

4 *(n) This section shall become operative on January 1,*
5 *2005.*

6 SEC. 10. Section 12955.8 of the Government Code is
7 amended to read:

8 12955.8. For purposes of this article, in connection
9 with unlawful practices:

10 (a) Proof of an intentional violation of this article
11 includes, but is not limited to, an act or failure to act that
12 is otherwise covered by this part, that demonstrates an
13 intent to discriminate in any manner in violation of this
14 part. A person intends to discriminate if race, color,
15 religion, sex, sexual orientation, familial status, marital
16 status, disability, national origin, or ancestry is a
17 motivating factor in committing a discriminatory housing
18 practice even though other factors may have also
19 motivated the practice. An intent to discriminate may be
20 established by direct or circumstantial evidence.

21 (b) Proof of a violation causing a discriminatory effect
22 is shown if an act or failure to act that is otherwise covered
23 by this part, and that has the effect, regardless of intent,
24 of unlawfully discriminating on the basis of race, color,
25 religion, sex, sexual orientation, familial status, marital
26 status, disability, national origin, or ancestry. A business
27 establishment whose action or inaction has an
28 unintended discriminatory effect shall not be considered
29 to have committed an unlawful housing practice in
30 violation of this part if the business establishment can
31 establish that the action or inaction is necessary to the
32 operation of the business and effectively carries out the
33 significant business need it is alleged to serve. In cases
34 that do not involve a business establishment, the person
35 whose action or inaction has an unintended
36 discriminatory effect shall not be considered to have
37 committed an unlawful housing practice in violation of
38 this part if the person can establish that the action or
39 inaction is necessary to achieve an important purpose
40 sufficiently compelling to override the discriminatory

1 effect and effectively carries out the purpose it is alleged
2 to serve.

3 (1) Any determination of a violation pursuant to this
4 subdivision shall consider whether or not there are
5 feasible alternatives that would equally well or better
6 accomplish the purpose advanced with a less
7 discriminatory effect.

8 (2) For purposes of this subdivision, the term “business
9 establishment” shall have the same meaning as in Section
10 51 of the Civil Code.

11 SEC. 11. Section 12993 of the Government Code is
12 amended to read:

13 12993. (a) The provisions of this part shall be
14 construed liberally for the accomplishment of the
15 purposes of this part. Nothing contained in this part shall
16 be deemed to repeal any of the provisions of the Civil
17 Rights Law or of any other law of this state relating to
18 discrimination because of race, religious creed, color,
19 national origin, ancestry, physical disability, mental
20 disability, medical condition, marital status, sex, age, or
21 sexual orientation, unless those provisions provide less
22 protection to the enumerated classes of persons covered
23 under this part.

24 (b) Nothing contained in this part relating to
25 discrimination in employment on account of sex or
26 medical condition shall be deemed to affect the operation
27 of the terms or conditions of any bona fide retirement,
28 pension, employee benefit, or insurance plan, provided
29 the terms or conditions are in accordance with customary
30 and reasonable or actuarially sound underwriting
31 practices.

32 (c) While it is the intention of the Legislature to
33 occupy the field of regulation of discrimination in
34 employment and housing encompassed by the provisions
35 of this part, exclusive of all other laws banning
36 discrimination in employment and housing by any city,
37 city and county, county, or other political subdivision of
38 the state, nothing contained in this part shall be
39 construed, in any manner or way, to limit or restrict the
40 application of Section 51 of the Civil Code.

1 SEC. 12. Section 1102.1 of the Labor Code is repealed.

2 SEC. 13. Section 2.5 of this bill incorporates
3 amendments to Section 12921 of the Government Code
4 proposed by both this bill and AB 1670. It shall only
5 become operative if (1) both bills are enacted and
6 become effective on or before January 1, 2000, (2) each
7 bill amends Section 12921 of the Government Code, and
8 (3) this bill is enacted after AB 1670, in which case Section
9 2 of this bill shall not become operative.

10 SEC. 14. (a) Section 3.5 of this bill incorporates
11 amendments to Section 12926 of the Government Code
12 proposed by both this bill and AB 1670. It shall only
13 become operative if (1) both bills are enacted and
14 become effective on or before January 1, 2000, (2) each
15 bill amends Section 12926 of the Government Code, (3)
16 SB 1185 is not enacted or as enacted does not amend that
17 section, and (4) this bill is enacted after AB 1670, in which
18 case Sections 3, 3.6, and 3.7 of this bill shall not become
19 operative.

20 (b) Section 3.6 of this bill incorporates amendments to
21 Section 12926 of the Government Code proposed by both
22 this bill and SB 1185. It shall only become operative if (1)
23 both bills are enacted and become effective on or before
24 January 1, 2000, (2) each bill amends Section 12926 of the
25 Government Code, (3) AB 1670 is not enacted or as
26 enacted does not amend that section, and (4) this bill is
27 enacted after SB 1185, in which case Sections 3, 3.5, and
28 3.7 of this bill shall not become operative.

29 (c) Section 3.7 of this bill incorporates amendments to
30 Section 12926 of the Government Code proposed by this
31 bill, AB 1670, and SB 1185. It shall only become operative
32 if (1) all three bills are enacted and become effective on
33 or before January 1, 2000, (2) all three bills amend Section
34 12926 of the Government Code, and (3) this bill is
35 enacted after AB 1670 and SB 1185, in which case Sections
36 3, 3.5, and 3.6 of this bill shall not become operative.

37 SEC. 15. Section 4.5 of this bill incorporates
38 amendments to Section 12930 of the Government Code
39 proposed by both this bill and AB 1670. It shall only
40 become operative if (1) both bills are enacted and

1 *become effective on or before January 1, 2000, (2) each*
2 *bill amends Section 12930 of the Government Code, and*
3 *(3) this bill is enacted after AB 1670, in which case Section*
4 *4 of this bill shall not become operative.*

5 *SEC. 16. Section 7.5 of this bill incorporates*
6 *amendments to Section 12940 of the Government Code*
7 *proposed by both this bill and AB 1670. It shall only*
8 *become operative if (1) both bills are enacted and*
9 *become effective on or before January 1, 2000, (2) each*
10 *bill amends Section 12940 of the Government Code, and*
11 *(3) this bill is enacted after AB 1670, in which case Section*
12 *7 of this bill shall not become operative.*

13 *SEC. 17. (a) Section 9.1 of this bill incorporates*
14 *amendments to Section 12955 of the Government Code*
15 *proposed by both this bill and AB 1670. It shall only*
16 *become operative if (1) both bills are enacted and*
17 *become effective on or before January 1, 2000, (2) each*
18 *bill amends Section 12955 of the Government Code, (3)*
19 *SB 1098 and SB 1148 are not enacted or as enacted do not*
20 *amend that section, and (4) this bill is enacted after AB*
21 *1670, in which case Sections 9, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 9.8,*
22 *9.81, 9.82, and 9.83 of this bill shall not become operative.*

23 *(b) Sections 9.2 and 9.8 of this bill incorporate*
24 *amendments to Section 12955 of the Government Code*
25 *proposed by both this bill and SB 1098. They shall only*
26 *become operative if (1) both bills are enacted and*
27 *become effective on or before January 1, 2000, (2) each*
28 *bill amends Section 12955 of the Government Code, (3)*
29 *AB 1670 and SB 1148 are not enacted or as enacted do not*
30 *amend that section, and (4) this bill is enacted after SB*
31 *1098, in which case Sections 9, 9.1, 9.3, 9.4, 9.5, 9.6, 9.7, 9.81,*
32 *9.82, and 9.83 of this bill shall not become operative.*

33 *(c) Section 9.3 of this bill incorporates amendments to*
34 *Section 12955 of the Government Code proposed by both*
35 *this bill and SB 1148. It shall only become operative if (1)*
36 *both bills are enacted and become effective on or before*
37 *January 1, 2000, (2) each bill amends Section 12955 of the*
38 *Government Code, (3) AB 1670 and SB 1098 are not*
39 *enacted or as enacted do not amend that section, and (4)*
40 *this bill is enacted after SB 1148, in which case Sections 9,*

1 9.1, 9.2, 9.4, 9.5, 9.6, 9.7, 9.8, 9.81, 9.82, and 9.83 of this bill
2 shall not become operative.

3 (d) Sections 9.4 and 9.81 of this bill incorporate
4 amendments to Section 12955 of the Government Code
5 proposed by this bill, AB 1670, and SB 1098. It shall only
6 become operative if (1) all three bills are enacted and
7 become effective on or before January 1, 2000, (2) each
8 bill amends Section 12955 of the Government Code, (3)
9 SB 1148 is not enacted or as enacted does not amend that
10 section, and (4) this bill is enacted after AB 1670 and SB
11 1098, in which case Sections 9, 9.1, 9.2, 9.3, 9.5, 9.6, 9.7, 9.8,
12 9.82, and 9.83 of this bill shall not become operative.

13 (e) Section 9.5 of this bill incorporates amendments to
14 Section 12955 of the Government Code proposed by this
15 bill, AB 1670, and SB 1148. It shall only become operative
16 if (1) all three bills are enacted and become effective on
17 or before January 1, 2000, (2) each bill amends Section
18 12955 of the Government Code, (3) SB 1098 is not enacted
19 or as enacted does not amend that section, and (4) this bill
20 is enacted after AB 1670 and SB 1148, in which case
21 Sections 9, 9.1, 9.2, 9.3, 9.4, 9.6, 9.7, 9.8, 9.81, 9.82, and 9.83
22 of this bill shall not become operative.

23 (f) Sections 9.6 and 9.82 of this bill incorporates
24 amendments to Section 12955 of the Government Code
25 proposed by this bill, SB 1098, and SB 1148. It shall only
26 become operative if (1) all three bills are enacted and
27 become effective on or before January 1, 2000, (2) each
28 bill amends Section 12955 of the Government Code, (3)
29 AB 1670 is not enacted or as enacted does not amend that
30 section, and (4) this bill is enacted after SB 1098 and SB
31 1148, in which case Sections 9, 9.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8,
32 9.81, and 9.83 of this bill shall not become operative.

33 (g) Sections 9.7 and 9.83 of this bill incorporate
34 amendments to Section 12955 of the Government Code
35 proposed by this bill, AB 1670, SB 1098, and SB 1148. It
36 shall only become operative if (1) all four bills are enacted
37 and become effective on or before January 1, 2000, (2)
38 each bill amends Section 12955 of the Government Code,
39 and (3) this bill is enacted after AB 1670, SB 1098, and SB

- 1 *1148, in which case Sections 9, 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.8,*
- 2 *9.81, and 9.82 of this bill shall not become operative.*

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