

AMENDED IN SENATE SEPTEMBER 3, 1999

AMENDED IN SENATE AUGUST 26, 1999

AMENDED IN SENATE AUGUST 25, 1999

AMENDED IN ASSEMBLY JUNE 1, 1999

AMENDED IN ASSEMBLY MAY 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1670**

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**Introduced by Committee on Judiciary (Kuehl (Chair),  
Aroner, Bock, Corbett, Jackson, Knox, Longville, Shelley,  
Steinberg, and Wiggins)**

March 15, 1999

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An act to amend Section 51.5 of the Civil Code, and to amend Sections 11139, 12921, 12926, 12927, 12930, 12940, 12945, 12948, 12955, 12965, 12970, 12989.2, and 12989.3 of, *and to add Section 12955 to*, the Government Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 1670, as amended, Committee on Judiciary. California Civil Rights Amendments of 1999.

Existing law prohibits business establishments from discriminating against, boycotting or blacklisting, or refusing to buy from, sell to, or trade with any person because of the race, creed, religion, color, national origin, sex, or disability of any person or the person's partners, members, stockholders,

directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers.

This bill would additionally prohibit these forms of discrimination (1) because of a perception that any of those persons have one or more of the above characteristics or (2) because the person is associated with a person who has, or is perceived to have, any of those characteristics.

Existing law prohibits denial of benefits under, or discrimination against any person in, any program or activity funded or financially assisted by the state on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability. Existing law specifies a hearing procedure for determining violations and requires curtailing state funding for any contractor, grantee, or local agency found to be in violation.

This bill would make these provisions and regulations adopted thereunder enforceable by a civil action for equitable relief.

Existing provisions of the California Fair Employment and Housing Act declare as a civil right the opportunity to seek, obtain, and hold employment without discrimination on specified bases.

This bill would declare as a civil right the opportunity to seek, obtain, and hold housing without discrimination on specified bases or any arbitrary basis prohibited by the Unruh Civil Rights Act. The bill would also revise the definition of discrimination for the purposes of these provisions to include harassment in connection with housing accommodations.

Existing provisions of the California Fair Employment and Housing Act make it an unlawful employment practice for employers, including employer agents, among others, to harass an employee or applicant because of specified bases. Under existing law, harassment of an employee or applicant by other than an employer agent or supervisor is unlawful only if the employer, or its agents or supervisors, knows or should have known of the harassment and fails to take immediate and appropriate corrective action.

This bill would add a definition of “supervisor” to the act and expand the act’s provisions on harassment to make them applicable to harassment of persons providing services



pursuant to a contract, as defined. The bill would provide that the definition of “supervisor” that it would add is declaratory of existing law.

Nothing in the California Fair Employment and Housing Act makes it an unlawful employment practice to require testing for a genetic characteristic.

This bill would make it an unlawful employment practice for an employer or other entity to require testing for a genetic characteristic. This bill would also make it an unlawful employment practice to make, in connection with prospective employment, any inquiry as to, or a request for information regarding, the physical fitness or physical or mental condition of an applicant, except as specified.

Existing provisions of the California Fair Employment and Housing Act prohibit discrimination based on specified bases.

This bill would provide that those bases include a perception that the person has any of those characteristics or is associated with a person who has, or is perceived to have, any of those characteristics.

Nothing in the California Fair Employment and Housing Act makes it an unlawful employment practice to refuse to provide a reasonable accommodation for a pregnant female employee during the pregnancy.

This bill would make it an unlawful employment practice for an employer to refuse to provide a reasonable accommodation requested by an employee, with the advice of her health care provider, for conditions related to pregnancy, childbirth, or related medical conditions.

In any civil action brought under the California Fair Employment and Housing Act the court, with certain exceptions, is authorized to award the prevailing party reasonable attorney’s fees and costs.

This bill would additionally authorize the court to award the prevailing party his or her expert witness fees.

Under existing law, the respondent named in an administrative accusation under the California Fair Employment and Housing Act brought for damages for emotional injuries or for an administrative fine may elect to transfer the proceedings to a court. Existing law authorizes the court in those actions to grant specified relief.



This bill would additionally authorize the relief granted by the court to include a requirement that the employer conduct prescribed training.

Existing provisions of the California Fair Employment and Housing Act limit the total amount of damages that may be awarded by the Fair Employment and Housing Commission for nonpecuniary loss and administrative fines to \$50,000 per aggrieved person per respondent.

This bill would increase this limitation to \$150,000.

This bill would additionally make technical and conforming changes to provisions of the California Fair Employment and Housing Act.

This bill would specify that the changes it would make in types of discrimination prohibited by the Unruh Civil Rights Act, and in certain of the definitional provisions of the California Fair Employment and Housing Act, are declaratory of existing law.

*This bill would incorporate the changes in Section 12926 of the Government Code proposed by Senate Bill 1185, if that bill is enacted and this bill is enacted last.*

*This bill would incorporate the changes in Section 12955 of the Government Code proposed by Senate Bill 1098, Senate Bill 1148, or both, if either or both of those bills are enacted 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. This act shall be known, and may be  
2 cited, as the California Civil Rights Amendments of 1999.

3 SEC. 2. Section 51.5 of the Civil Code is amended to  
4 read:

5 51.5. No business establishment of any kind  
6 whatsoever shall discriminate against, boycott or  
7 blacklist, or refuse to buy from, contract with, sell to, or  
8 trade with any person in this state because of the race,  
9 creed, religion, color, national origin, sex, or disability of  
10 the person or of the person's partners, members,  
11 stockholders, directors, officers, managers,



1 superintendents, agents, employees, business associates,  
2 suppliers, or customers, because the person is perceived  
3 to have one or more of those characteristics, or because  
4 the person is associated with a person who has, or is  
5 perceived to have, any of those characteristics.

6 As used in this section, “person” includes any person,  
7 firm, association, organization, partnership, business  
8 trust, corporation, limited liability company, or company.

9 This section shall not be construed to require any  
10 construction, alteration, repair, structural or otherwise,  
11 or modification of any sort whatsoever, beyond that  
12 construction, alteration, repair, or modification that is  
13 otherwise required by other provisions of law, to any new  
14 or existing establishment, facility, building,  
15 improvement, or any other structure, nor shall this  
16 section be construed to augment, restrict, or alter in any  
17 way the authority of the State Architect to require  
18 construction, alteration, repair, or modifications that the  
19 State Architect otherwise possesses pursuant to other  
20 laws.

21 SEC. 3. Section 11139 of the Government Code is  
22 amended to read:

23 11139. The prohibitions and sanctions imposed by this  
24 article are in addition to any other prohibitions and  
25 sanctions imposed by law.

26 This article shall not be interpreted in a manner that  
27 would frustrate its purpose.

28 This article shall not be interpreted in a manner that  
29 would adversely affect lawful programs which benefit the  
30 disabled, the aged, minorities, and women.

31 This article and regulations adopted pursuant to this  
32 article may be enforced by a civil action for equitable  
33 relief.

34 SEC. 4. Section 12921 of the Government Code is  
35 amended to read:

36 12921. (a) The opportunity to seek, obtain, and hold  
37 employment without discrimination because of race,  
38 religious creed, color, national origin, ancestry, physical  
39 disability, mental disability, medical condition, marital



1 status, sex, or age is hereby recognized as and declared to  
2 be a civil right.

3 (b) The opportunity to seek, obtain, and hold housing  
4 without discrimination because of race, color, religion,  
5 sex, marital status, national origin, ancestry, familial  
6 status, disability, or any other basis prohibited by Section  
7 51 of the Civil Code is hereby recognized as and declared  
8 to be a civil right.

9 SEC. 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, and cities,  
33 except as follows:

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

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

39 (f) “Essential functions” means the fundamental job  
40 duties of the employment position the individual with a



1 disability holds or desires. “Essential functions” does not  
2 include the marginal functions of the position.

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (h) “Medical condition” includes (1) genetic  
35 characteristics, or (2) any health impairment related to  
36 or associated with a diagnosis of cancer, for which a  
37 person has been rehabilitated or cured, based on  
38 competent medical evidence. For purposes of this  
39 section, “genetic characteristics” means any scientifically  
40 or medically identifiable gene or chromosome, or



1 combination or alteration thereof, that is known to be a  
2 cause of a disease or disorder in a person or his or her  
3 offspring, or is determined to be associated with a  
4 statistically increased risk of development of a disease or  
5 disorder, or inherited characteristics that may derive  
6 from the individual or family member, that is presently  
7 not associated with any symptoms of any disease or  
8 disorder.

9 (i) “Mental disability” includes any mental or  
10 psychological disorder, such as mental retardation,  
11 organic brain syndrome, emotional or mental illness, and  
12 specific learning disabilities. However, “mental  
13 disability” does not include conditions excluded from the  
14 federal definition of “disability” pursuant to Section 511  
15 of the Americans with Disabilities Act of 1990 (42 U.S.C.  
16 Sec. 12211). Additionally, for purposes of this part, the  
17 unlawful use of controlled substances or other drugs shall  
18 not be deemed, in and of itself, to constitute a mental  
19 disability.

20 (j) “On the bases enumerated in this part” means or  
21 refers to discrimination on the basis of one or more of the  
22 following: race, religious creed, color, national origin,  
23 ancestry, physical disability, mental disability, medical  
24 condition, marital status, sex, or age.

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

27 (1) Having any physiological disease, disorder,  
28 condition, cosmetic disfigurement, or anatomical loss that  
29 does both of the following:

30 (A) Affects one or more of the following body systems:  
31 neurological, immunological, musculoskeletal, special  
32 sense organs, respiratory, including speech organs,  
33 cardiovascular, reproductive, digestive, genitourinary,  
34 hemic and lymphatic, skin, and endocrine.

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

37 (2) Any other health impairment not described in  
38 paragraph (1) that requires special education or related  
39 services.





1 (3) Being regarded as having or having had a disease,  
2 disorder, condition, cosmetic disfigurement, anatomical  
3 loss, or health impairment described in paragraph (1) or  
4 (2).

5 (4) Being regarded as having, or having had, a disease,  
6 disorder, condition, cosmetic disfigurement, anatomical  
7 loss, or health impairment that has no present disabling  
8 effect but may become a physical disability as described  
9 in paragraph (1) or (2).

10 It is the intent of the Legislature that the definition of  
11 “physical disability” in this subdivision shall have the  
12 same meaning as the term “physical handicap” formerly  
13 defined by this subdivision and construed in American  
14 National Ins. Co. v. Fair Employment & Housing Com.  
15 (1982) 32 Cal.3d 603. However, “physical disability” does  
16 not include conditions excluded from the federal  
17 definition of “disability” pursuant to Section 511 of the  
18 Americans with Disabilities Act of 1990 (42 U.S.C. Sec.  
19 12211). Additionally, for purposes of this part, the  
20 unlawful use of controlled substances or other drugs shall  
21 not be deemed, in and of itself, to constitute a physical  
22 disability.

23 (l) Notwithstanding subdivisions (i) and (k), if the  
24 definition of “disability” used in the Americans with  
25 Disabilities Act of 1990 (P.L. 101-336) would result in  
26 broader protection of the civil rights of individuals with  
27 a mental disability or physical disability, as defined in  
28 subdivision (i) or (k), or would include any medical  
29 condition not included within those definitions, then that  
30 broader protection or coverage shall be deemed  
31 incorporated by reference into, and shall prevail over  
32 conflicting provisions of, the definitions in subdivisions  
33 (i) and (k).

34 (m) “Race, religious creed, color, national origin,  
35 ancestry, physical disability, mental disability, medical  
36 condition, marital status, sex, or age” includes a  
37 perception that the person has any of those  
38 characteristics or that the person is associated with a  
39 person who has, or is perceived to have, any of those  
40 characteristics.



1 (n) “Reasonable accommodation” may include either  
2 of the following:

3 (1) Making existing facilities used by employees  
4 readily accessible to, and usable by, individuals with  
5 disabilities.

6 (2) Job restructuring, part-time or modified work  
7 schedules, reassignment to a vacant position, acquisition  
8 or modification of equipment or devices, adjustment or  
9 modifications of examinations, training materials or  
10 policies, the provision of qualified readers or interpreters,  
11 and other similar accommodations for individuals with  
12 disabilities.

13 (o) “Religious creed,” “religion,” “religious  
14 observance,” “religious belief,” and “creed” include all  
15 aspects of religious belief, observance, and practice.

16 (p) “Sex” includes, but is not limited to, pregnancy,  
17 childbirth, or medical conditions related to pregnancy or  
18 childbirth.

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

28 (r) “Undue hardship” means an action requiring  
29 significant difficulty or expense, when considered in light  
30 of the following factors: (1) the nature and cost of the  
31 accommodation needed, (2) the overall financial  
32 resources of the facilities involved in the provision of the  
33 reasonable accommodations, the number of persons  
34 employed at the facility, and the effect on expenses and  
35 resources or the impact otherwise of these  
36 accommodations upon the operation of the facility, (3)  
37 the overall financial resources of the covered entity, the  
38 overall size of the business of a covered entity with  
39 respect to the number of employees, and the number,  
40 type, and location of its facilities, (4) the type of



1 operations, including the composition, structure, and  
2 functions of the work force of the entity, and (5) the  
3 geographic separateness, administrative, or fiscal  
4 relationship of the facility or facilities.

5 *SEC. 5.1. Section 12926 of the Government Code is*  
6 *amended to read:*

7 12926. As used in this part in connection with  
8 unlawful practices, unless a different meaning clearly  
9 appears from the context:

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

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

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

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

30 ~~(1) “Employer”~~

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

8 (A) Any scientifically or medically identifiable gene or  
9 chromosome, or combination or alteration thereof, that  
10 is known to be a cause of a disease or disorder in a person  
11 or his or her offspring, or *that* is determined to be  
12 associated with a statistically increased risk of  
13 development of a disease or disorder, ~~or inherited and~~  
14 *that is presently not associated with any symptoms of any*  
15 *disease or disorder.*

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

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

34 (j) “On the bases enumerated in this part” means or  
35 refers to discrimination on the basis of one or more of the  
36 following: race, religious creed, color, national origin,  
37 ancestry, physical disability, mental disability, medical  
38 condition, marital status, sex, or age.

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



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

4 (A) Affects one or more of the following body systems:  
5 neurological, immunological, musculoskeletal, special  
6 sense organs, respiratory, including speech organs,  
7 cardiovascular, reproductive, digestive, genitourinary,  
8 hemic and lymphatic, skin, and endocrine.

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

11 (2) Any other health impairment not described in  
12 paragraph (1) that requires special education or related  
13 services.

14 (3) Being regarded as having or having had a disease,  
15 disorder, condition, cosmetic disfigurement, anatomical  
16 loss, or health impairment described in paragraph (1) or  
17 (2).

18 (4) Being regarded as having, or having had, a disease,  
19 disorder, condition, cosmetic disfigurement, anatomical  
20 loss, or health impairment that has no present disabling  
21 effect but may become a physical disability as described  
22 in paragraph (1) or (2).

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

36 (l) Notwithstanding subdivisions (i) and (k), if the  
37 definition of "disability" used in the Americans with  
38 Disabilities Act of 1990 (~~Public Law~~ *P.L.* 101-336) would  
39 result in broader protection of the civil rights of  
40 individuals with a mental disability or physical disability,



1 as defined in subdivision (i) or (k), or would include any  
2 medical condition not included within those definitions,  
3 then that broader protection or coverage shall be deemed  
4 incorporated by reference into, and shall prevail over  
5 conflicting provisions of, the definitions in subdivisions  
6 (i) and (k).

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

14 (n) *“Reasonable accommodation” may include either*  
15 *of the following:*

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

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

26 ~~(n)~~

27 (o) *“Religious creed,” “religion,” “religious*  
28 *observance,” “religious belief,” and “creed” include all*  
29 *aspects of religious belief, observance, and practice.*

30 ~~(o)~~

31 (p) *“Sex” includes, but is not limited to, pregnancy,*  
32 *childbirth, or medical conditions related to pregnancy or*  
33 *childbirth.*

34 ~~(p)~~

35 (q) *“Supervisor means any individual having the*  
36 *authority, in the interest of the employer, to hire,*  
37 *transfer, suspend, lay off, recall, promote, discharge,*  
38 *assign, reward, or discipline other employees, or the*  
39 *responsibility to direct them, or to adjust their grievances,*  
40 *or effectively to recommend that action, if, in connection*



1 *with the foregoing, the exercise of that authority is not of*  
2 *a merely routine or clerical nature, but requires the use*  
3 *of independent judgment.*

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

21 SEC. 6. Section 12927 of the Government Code is  
22 amended to read:

23 12927. As used in this part in connection with housing  
24 accommodations, unless a different meaning clearly  
25 appears from the context:

26 (a) “Affirmative actions” means any activity for the  
27 purpose of eliminating discrimination in housing  
28 accommodations because of race, color, religion, sex,  
29 marital status, national origin, ancestry, familial status, or  
30 disability.

31 (b) “Conciliation council” means a nonprofit  
32 organization, or a city or county human relations  
33 commission, which provides education, factfinding, and  
34 mediation or conciliation services in resolution of  
35 complaints of housing discrimination.

36 (c) (1) “Discrimination” includes refusal to sell, rent,  
37 or lease housing accommodations; includes refusal to  
38 negotiate for the sale, rental, or lease of housing  
39 accommodations; includes representation that a housing  
40 accommodation is not available for inspection, sale, or





1 rental when that housing accommodation is in fact so  
2 available; includes any other denial or withholding of  
3 housing accommodations; includes provision of inferior  
4 terms, conditions, privileges, facilities, or services in  
5 connection with those housing accommodations; includes  
6 harassment in connection with those housing  
7 accommodations; includes the cancellation or  
8 termination of a sale or rental agreement; includes the  
9 provision of segregated or separated housing  
10 accommodations; includes the refusal to permit, at the  
11 expense of the disabled person, reasonable modifications  
12 of existing premises occupied or to be occupied by the  
13 disabled person, if the modifications may be necessary to  
14 afford the disabled person full enjoyment of the premises,  
15 except that, in the case of a rental, the landlord may,  
16 where it is reasonable to do so condition permission for a  
17 modification on the renter's agreeing to restore the  
18 interior of the premises to the condition that existed  
19 before the modification (other than for reasonable wear  
20 and tear), and includes refusal to make reasonable  
21 accommodations in rules, policies, practices, or services  
22 when these accommodations may be necessary to afford  
23 a disabled person equal opportunity to use and enjoy a  
24 dwelling.

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

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

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

38 (d) "Housing accommodation" means any building,  
39 structure, or portion thereof that is occupied as, or  
40 intended for occupancy as, a residence by one or more



1 families and any vacant land that is offered for sale or  
2 lease for the construction thereon of any building,  
3 structure, or portion thereof intended to be so occupied.

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

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

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

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

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

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

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

34 SEC. 7. Section 12930 of the Government Code is  
35 amended to read:

36 12930. The department shall have the following  
37 functions, powers and duties:

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



- 1 (b) To meet and function at any place within the state.
- 2 (c) To appoint attorneys, investigators, conciliators,  
3 and other employees as it may deem necessary, fix their  
4 compensation within the limitations provided by law, and  
5 prescribe their duties.
- 6 (d) To obtain upon request and utilize the services of  
7 all governmental departments and agencies and, in  
8 addition, with respect to housing discrimination, of  
9 conciliation councils.
- 10 (e) To adopt, promulgate, amend, and rescind suitable  
11 rules and regulations to carry out the functions and duties  
12 of the department pursuant to this part.
- 13 (f) (1) To receive, investigate and conciliate  
14 complaints alleging practices made unlawful pursuant to  
15 Chapter 6 (commencing with Section 12940).
- 16 (2) To receive, investigate, and conciliate complaints  
17 alleging a violation of Section 51 , 51.5, 51.7, 54, 54.1, or 54.2  
18 of the Civil Code. The remedies and procedures of this  
19 part shall be independent of any other remedy or  
20 procedure that might apply.
- 21 (g) In connection with any matter under investigation  
22 or in question before the department pursuant to a  
23 complaint filed under Section 12960, 12961, or 12980:
- 24 (1) To issue subpoenas to require the attendance and  
25 testimony of witnesses and the production of books,  
26 records, documents, and physical materials.
- 27 (2) To administer oaths, examine witnesses under oath  
28 and take evidence, and take depositions and affidavits.
- 29 (3) To issue written interrogatories.
- 30 (4) To request the production for inspection and  
31 copying of books, records, documents, and physical  
32 materials.
- 33 (5) To petition the superior courts to compel the  
34 appearance and testimony of witnesses, the production of  
35 books, records, documents, and physical materials, and  
36 the answering of interrogatories.
- 37 (h) To issue accusations pursuant to Section 12965 or  
38 12981 and to prosecute those accusations before the  
39 commission.

1 (i) To issue those publications and those results of  
2 investigations and research as in its judgment will tend to  
3 promote good will and minimize or eliminate  
4 discrimination in employment on the bases enumerated  
5 in this part and discrimination in housing because of race,  
6 religious creed, color, sex, marital status, national origin,  
7 ancestry, familial status, or disability.

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

11 (k) To render annually to the Governor and to the  
12 Legislature a written report of its activities and of its  
13 recommendations.

14 SEC. 8. 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 sex  
24 of any person, to refuse to hire or employ the person or  
25 to refuse to select the person for a training program  
26 leading to employment, or to bar or to discharge the  
27 person from employment or from a training program  
28 leading to employment, or to discriminate against the  
29 person in compensation or in terms, conditions, or  
30 privileges of employment.

31 (1) This part does not prohibit an employer from  
32 refusing to hire or discharging an employee with a  
33 physical or mental disability, or subject an employer to  
34 any legal liability resulting from the refusal to employ or  
35 the discharge of an employee with a physical or mental  
36 disability, where the employee, because of his or her  
37 physical or mental disability, is unable to perform his or  
38 her essential duties even with reasonable  
39 accommodations, or cannot perform those duties in a  
40 manner that would not endanger his or her health or



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

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

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

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

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

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

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



1 disability, mental disability, medical condition, marital  
2 status, or sex of the person in the election of officers of the  
3 labor organization or in the selection of the labor  
4 organization's staff or to discriminate in any way against  
5 any of its members or against any employer or against any  
6 person employed by an employer.

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

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

39 (e) For any employer, labor organization, or  
40 employment agency to harass, discharge, expel, or



1 otherwise discriminate against any person because the  
2 person has made a report pursuant to Section 11161.8 of  
3 the Penal Code, which prohibits retaliation against  
4 hospital employees who report suspected patient abuse  
5 by health facilities or community care facilities.

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

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

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

32 (2) This subdivision is declaratory of existing law,  
33 except for the new duties imposed on employers with  
34 regard to harassment.

35 (3) (A) For purposes of this subdivision only,  
36 “employer” means any person regularly employing one  
37 or more persons or regularly receiving the services of one  
38 or more persons providing services pursuant to a  
39 contract, or any person acting as an agent of an employer,  
40 directly or indirectly, the state, or any political or civil



1 subdivision thereof, and cities. The definition of  
2 “employer” in subdivision (d) of Section 12926 applies to  
3 all provisions of this section other than this subdivision.

4 (B) Notwithstanding subparagraph (A), for purposes  
5 of this subdivision, “employer” does not include a  
6 religious association or corporation not organized for  
7 private profit.

8 (C) For purposes of this subdivision, “harassment”  
9 because of sex includes sexual harassment, gender  
10 harassment, and harassment based on pregnancy,  
11 childbirth, or related medical conditions.

12 (4) For purposes of this subdivision, “a person  
13 providing services pursuant to a contract” means a  
14 person who meets all of the following criteria:

15 (A) The person has the right to control the  
16 performance of the contract for services and discretion as  
17 to the manner of performance.

18 (B) The person is customarily engaged in an  
19 independently established business.

20 (C) The person has control over the time and place the  
21 work is performed, supplies the tools and instruments  
22 used in the work, and performs work that requires a  
23 particular skill not ordinarily used in the course of the  
24 employer’s work.

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

30 (j) For an employer or other entity covered by this  
31 part to refuse to hire or employ a person or to refuse to  
32 select a person for a training program leading to  
33 employment or to bar or to discharge a person from  
34 employment or from a training program leading to  
35 employment, or to discriminate against a person in  
36 compensation or in terms, conditions, or privileges of  
37 employment because of a conflict between the person’s  
38 religious belief or observance and any employment  
39 requirement, unless the employer or other entity  
40 covered by this part demonstrates that it has explored any





1 available reasonable alternative means of  
2 accommodating the religious belief or observance,  
3 including the possibilities of excusing the person from  
4 those duties that conflict with his or her religious belief or  
5 observance or permitting those duties to be performed at  
6 another time or by another person, but is unable to  
7 reasonably accommodate the religious belief or  
8 observance without undue hardship on the conduct of the  
9 business of the employer or other entity covered by this  
10 part. Religious belief or observance, as used in this  
11 section, includes, but is not limited to, observance of a  
12 Sabbath or other religious holy day or days, and  
13 reasonable time necessary for travel prior and subsequent  
14 to a religious observance.

15 (k) For an employer or other entity covered by this  
16 part to fail to make reasonable accommodation for the  
17 known physical or mental disability of an applicant or  
18 employee. Nothing in this subdivision or in paragraph (1)  
19 or (2) of subdivision (a) shall be construed to require an  
20 accommodation that is demonstrated by the employer or  
21 other covered entity to produce undue hardship to its  
22 operation.

23 (l) For an employer or other entity covered by this  
24 part, to subject, directly or indirectly, any employee,  
25 applicant, or other person to a test for the presence of a  
26 genetic characteristic.

27 SEC. 9. Section 12945 of the Government Code is  
28 amended to read:

29 12945. It shall be an unlawful employment practice,  
30 unless based upon a bona fide occupational qualification:

31 (a) For any employer, because of the pregnancy,  
32 childbirth, or related medical condition of any female  
33 employee, to refuse to promote her, or to refuse to select  
34 her for a training program leading to promotion,  
35 provided she is able to complete the training program at  
36 least three months prior to the anticipated date of  
37 departure for her pregnancy leave, or to discharge her  
38 from employment or from a training program leading to  
39 promotion, or to discriminate against her in



1 compensation or in terms, conditions, or privileges of  
2 employment.

3 (b) For any employer to refuse to allow a female  
4 employee affected by pregnancy, childbirth, or related  
5 medical conditions either:

6 (1) To receive the same benefits or privileges of  
7 employment granted by that employer to other persons  
8 not so affected who are similar in their ability or inability  
9 to work, including to take disability or sick leave or any  
10 other accrued leave that is made available by the  
11 employer to temporarily disabled employees. For  
12 purposes of this section, pregnancy, childbirth, and  
13 related medical conditions are treated as any other  
14 temporary disability. However, no employer shall be  
15 required to provide a female employee disability leave on  
16 account of normal pregnancy, childbirth, or related  
17 medical condition for a period exceeding six weeks. This  
18 section shall not be construed to require an employer to  
19 provide his or her employees with health insurance  
20 coverage for the medical costs of pregnancy, childbirth,  
21 or related medical conditions. The inclusion in any health  
22 insurance coverage of any provisions or coverage relating  
23 to medical costs of pregnancy, childbirth, or related  
24 medical conditions shall not be construed to require the  
25 inclusion of any other provisions or coverage, nor shall  
26 coverage of any related medical conditions be required  
27 by virtue of coverage of any medical costs of pregnancy,  
28 childbirth, or other related medical conditions.

29 (2) To take a leave on account of pregnancy for a  
30 reasonable period of time not to exceed four months. The  
31 employee shall be entitled to utilize any accrued vacation  
32 leave during this period of time. Reasonable period of  
33 time means that period during which the female  
34 employee is disabled on account of pregnancy, childbirth,  
35 or related medical conditions. This paragraph shall not be  
36 construed to limit the provisions of paragraph (1) of  
37 subdivision (b).

38 An employer may require any employee who plans to  
39 take a leave pursuant to this subdivision to give the



1 employer reasonable notice of the date the leave shall  
2 commence and the estimated duration of the leave.

3 (c) (1) For any employer, including both employers  
4 subject to and not subject to Title VII of the federal Civil  
5 Rights Act of 1964, to refuse to provide reasonable  
6 accommodation for an employee for conditions related to  
7 pregnancy, childbirth, or related medical conditions, if  
8 she so requests, with the advice of her health care  
9 provider.

10 (2) For any employer, including both employers  
11 subject to and not subject to Title VII of the federal Civil  
12 Rights Act of 1964, who has a policy, practice, or collective  
13 bargaining agreement requiring or authorizing the  
14 transfer of temporarily disabled employees to less  
15 strenuous or hazardous positions for the duration of the  
16 disability to refuse to transfer a pregnant female  
17 employee who so requests.

18 (3) For any employer, including both employers  
19 subject to and not subject to Title VII of the federal Civil  
20 Rights Act of 1964, to refuse to temporarily transfer a  
21 pregnant female employee to a less strenuous or  
22 hazardous position for the duration of her pregnancy if  
23 she so requests, with the advice of her physician, where  
24 that transfer can be reasonably accommodated.  
25 However, no employer shall be required by this section  
26 to create additional employment that the employer  
27 would not otherwise have created, nor shall the employer  
28 be required to discharge any employee, transfer any  
29 employee with more seniority, or promote any employee  
30 who is not qualified to perform the job.

31 (d) This section shall not be construed to affect any  
32 other provision of law relating to sex discrimination or  
33 pregnancy, or in any way to diminish the coverage of  
34 pregnancy, childbirth, or medical conditions related to  
35 pregnancy or childbirth under any other provisions of this  
36 part, including subdivision (a) of Section 12940.

37 (e) Except for subdivision (c) and paragraph (2) of  
38 subdivision (b), this section is inapplicable to any  
39 employer subject to Title VII of the federal Civil Rights  
40 Act of 1964.



1 SEC. 10. Section 12948 of the Government Code is  
2 amended to read:

3 12948. It is an unlawful practice under this part for a  
4 person to deny or to aid, incite, or conspire in the denial  
5 of the rights created by Section 51, 51.5, 51.7, 54, 54.1, or  
6 54.2 of the Civil Code.

7 SEC. 11. Section 12955 of the Government Code is  
8 amended to read:

9 12955. It shall be unlawful:

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

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

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

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

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



1 privileges relating to the obtaining or use of that financial  
2 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 marital status, ancestry, disability, familial status, or  
22 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, marital  
28 status, national origin, ancestry, familial status, or  
29 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, marital status, ancestry, disability,  
34 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, familial status, 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, familial status, marital status,



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

7 (m) As used in this section, “race, color, religion, sex,  
8 marital status, national origin, ancestry, familial status, or  
9 disability” includes a perception that the person has any  
10 of those characteristics or that the person is associated  
11 with a person who has, or is perceived to have, any of  
12 those characteristics.

13 *SEC. 11.1. Section 12955 of the Government Code is*  
14 *amended to read:*

15 12955. It shall be unlawful:

16 (a) For the owner of any housing accommodation to  
17 discriminate against *or harass* any person because of the  
18 race, color, religion, sex, marital status, national origin,  
19 ancestry, familial status, *source of income*, or disability of  
20 that person.

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

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

35 (d) For any person subject to the provisions of Section  
36 51 of the Civil Code, as that section applies to housing  
37 accommodations, to discriminate against any person on  
38 the basis of sex, color, race, religion, ancestry, national  
39 origin, familial status, marital status, disability, *source of*  
40 *income*, or on any other basis 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, marital status, national origin, ancestry,  
7 familial status, *source of income*, or disability in the terms,  
8 conditions, or privileges relating to the obtaining or use  
9 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 marital status, ancestry, disability, *source of income*,  
29 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, marital  
35 status, national origin, ancestry, *source of income*, familial  
36 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,



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

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

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

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

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

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

32 (p) (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 (q) *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. 11.2. Section 12955 is added to the Government  
4 Code, 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, marital status, national origin,  
9 ancestry, familial status, or disability of that person.

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

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

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

39 (f) For any owner of housing accommodations to  
40 harass, evict, or otherwise discriminate against any



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

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

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

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

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

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

34 (l) To discriminate through public or private land use  
35 practices, decisions, and authorizations because of race,  
36 color, religion, sex, familial status, marital status,  
37 disability, national origin, or ancestry. Discrimination  
38 includes, but is not limited to, restrictive covenants,  
39 zoning laws, denials of use permits, and other actions  
40 authorized under the Planning and Zoning Law (Title 7



1 (*commencing with Section 65000*)), *that make housing*  
2 *opportunities unavailable.*

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

9 (n) *This section shall become operative on January 1,*  
10 *2005.*

11 *SEC. 11.3. Section 12955 of the Government Code is*  
12 *amended to read:*

13 12955. It shall be unlawful:

14 (a) For the owner of any housing accommodation to  
15 discriminate against *or harass* any person because of the  
16 race, color, religion, sex, marital status, national origin,  
17 ancestry, familial status, 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, marital status,  
21 national origin, ancestry, familial status, or disability of  
22 any person seeking to purchase, rent or lease any housing  
23 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, marital status, national origin, ancestry, familial  
30 status, or disability or an intention to make any such  
31 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, color, race, religion, ancestry, national  
36 origin, familial status, marital status, disability, or on any  
37 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, marital status, national origin, ancestry,  
4 familial status, or disability in the terms, conditions, or  
5 privileges relating to the obtaining or use of that financial  
6 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 marital status, ancestry, disability, familial status, or  
26 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, marital  
32 status, national origin, ancestry, familial status, or  
33 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, marital status, ancestry, disability,  
38 familial status, or national origin.



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

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

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

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

24 *SEC. 11.4. Section 12955 of the Government Code is*  
25 *amended to read:*

26 12955. It shall be unlawful:

27 (a) For the owner of any housing accommodation to  
28 discriminate against *or harass* any person because of the  
29 race, color, religion, sex, marital status, national origin,  
30 ancestry, familial status, *source of income*, or disability of  
31 that person.

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

38 (c) For any person to make, print, or publish, or cause  
39 to be made, printed, or published any notice, statement,  
40 or advertisement, with respect to the sale or rental of a



1 housing accommodation that indicates any preference,  
2 limitation, or discrimination based on race, color, religion,  
3 sex, marital status, national origin, ancestry, familial  
4 status, *source of income*, or disability or an intention to  
5 make any such preference, limitation, or discrimination.

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

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

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

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

35 (h) For any person, for profit, to induce any person to  
36 sell or rent any dwelling by representations regarding the  
37 entry or prospective entry into the neighborhood of a  
38 person or persons of a particular race, color, religion, sex,  
39 marital status, ancestry, disability, *source of income*,  
40 familial status, or national origin.



1 (i) For any person or other organization or entity  
2 whose business involves real estate-related transactions to  
3 discriminate against any person in making available a  
4 transaction, or in the terms and conditions of a  
5 transaction, because of race, color, religion, sex, marital  
6 status, national origin, ancestry, *source of income*, familial  
7 status, or disability.

8 (j) To deny a person access to, or membership or  
9 participation in, a multiple listing service, real estate  
10 brokerage organization, or other service because of race,  
11 color, religion, sex, marital status, ancestry, disability,  
12 familial status, *source of income*, or national origin.

13 (k) To otherwise make unavailable or deny a dwelling  
14 based on discrimination because of race, color, religion,  
15 sex, familial status, *source of income*, disability, or national  
16 origin.

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

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

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

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



1 (o) As used in this section, “race, color, religion, sex,  
2 marital status, national origin, ancestry, familial status, or  
3 disability” includes a perception that the person has any  
4 of those characteristics or that the person is associated  
5 with a person who has, or is perceived to have, any of  
6 those characteristics.

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

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

14 (q) This section shall remain in effect only until  
15 January 1, 2005, and as of that date is repealed, unless a  
16 later enacted statute, that is enacted before January 1,  
17 2005, deletes or extends that date.

18 SEC. 11.5. Section 12955 is added to the Government  
19 Code, to read:

20 12955. It shall be unlawful:

21 (a) For the owner of any housing accommodation to  
22 discriminate against or harass any person because of the  
23 race, color, religion, sex, marital status, national origin,  
24 ancestry, familial status, or disability of that person.

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

31 (c) For any person to make, print, or publish, or cause  
32 to be made, printed, or published any notice, statement,  
33 or advertisement, with respect to the sale or rental of a  
34 housing accommodation that indicates any preference,  
35 limitation, or discrimination based on race, color, religion,  
36 sex, marital status, national origin, ancestry, familial  
37 status, or disability or an intention to make any such  
38 preference, limitation, or discrimination.

39 (d) For any person subject to the provisions of Section  
40 51 of the Civil Code, as that section applies to housing





1 accommodations, to discriminate against any person on  
2 the basis of sex, color, race, religion, ancestry, national  
3 origin, familial status, marital status, disability, or on any  
4 other basis prohibited by that section.

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

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

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

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

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



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

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

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

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

23 (m) As used in this section, “race, color, religion, sex,  
24 marital status, national origin, ancestry, familial status, or  
25 disability” includes a perception that the person has any  
26 of those characteristics or that the person is associated  
27 with a person who has, or is perceived to have, any of  
28 those characteristics.

29 (n) This section shall become operative on January 1,  
30 2005.

31 SEC. 12. Section 12965 of the Government Code is  
32 amended to read:

33 12965. (a) In the case of failure to eliminate an  
34 unlawful practice under this part through conference,  
35 conciliation, or persuasion, or in advance thereof if  
36 circumstances warrant, the director in his or her  
37 discretion may cause to be issued in the name of the  
38 department a written accusation. The accusation shall  
39 contain the name of the person, employer, labor  
40 organization, or employment agency accused, which



1 shall be known as the respondent, shall set forth the  
2 nature of the charges, shall be served upon the  
3 respondent together with a copy of the verified  
4 complaint, as amended, and shall require the respondent  
5 to answer the charges at a hearing.

6 For any complaint treated by the director as a group or  
7 class complaint for purposes of investigation, conciliation,  
8 and accusation pursuant to Section 12961, an accusation  
9 shall be issued, if at all, within two years after the filing of  
10 the complaint. For all other complaints, an accusation  
11 shall be issued, if at all, within one year after the filing of  
12 a complaint. If the director determines, pursuant to  
13 Section 12961, that a complaint investigated as a group or  
14 class complaint under Section 12961 is to be treated as a  
15 group or class complaint for purposes of conciliation and  
16 accusation as well, that determination shall be made and  
17 shall be communicated in writing within one year after  
18 the filing of the complaint to each person, employer, labor  
19 organization, employment agency, or public entity  
20 alleged in the complaint to have committed an unlawful  
21 practice.

22 (b) If an accusation is not issued within 150 days after  
23 the filing of a complaint, or if the department earlier  
24 determines that no accusation will issue, the department  
25 shall promptly notify, in writing, the person claiming to  
26 be aggrieved that the department shall issue, on his or her  
27 request, the right-to-sue notice. This notice shall indicate  
28 that the person claiming to be aggrieved may bring a civil  
29 action under this part against the person, employer, labor  
30 organization, or employment agency named in the  
31 verified complaint within one year from the date of that  
32 notice. If the person claiming to be aggrieved does not  
33 request a right-to-sue notice, the department shall issue  
34 the notice upon completion of its investigation, and not  
35 later than one year after the filing of the complaint. A city,  
36 county, or district attorney in a location having an  
37 enforcement unit established on or before March 1, 1991,  
38 pursuant to a local ordinance enacted for the purpose of  
39 prosecuting HIV/AIDS discrimination claims, acting on  
40 behalf of any person claiming to be aggrieved due to



1 HIV/AIDS discrimination, may also bring a civil action  
2 under this part against the person, employer, labor  
3 organization, or employment agency named in the  
4 notice. The superior and municipal courts of the State of  
5 California shall have jurisdiction of those actions, and the  
6 aggrieved person may file in any of these courts. Such an  
7 action may be brought in any county in the state in which  
8 the unlawful practice is alleged to have been committed,  
9 in the county in which the records relevant to the  
10 practice are maintained and administered, or in the  
11 county in which the aggrieved person would have  
12 worked or would have had access to the public  
13 accommodation but for the alleged unlawful practice, but  
14 if the defendant is not found within any of these counties,  
15 an action may be brought within the county of the  
16 defendant's residence or principal office. A copy of any  
17 complaint filed pursuant to this part shall be served on the  
18 principal offices of the department and of the  
19 commission. The remedy for failure to send a copy of a  
20 complaint is an order to do so. Those actions may not be  
21 filed as class actions or may not be maintained as class  
22 actions by the person or persons claiming to be aggrieved  
23 where those persons have filed a civil class action in the  
24 federal courts alleging a comparable claim of  
25 employment discrimination against the same defendant  
26 or defendants. In actions brought under this section, the  
27 court, in its discretion, may award to the prevailing party  
28 reasonable attorney's fees and costs, including expert  
29 witness fees, except where the action is filed by a public  
30 agency or a public official, acting in an official capacity.

31 (c) (1) If an accusation or amended accusation  
32 includes a prayer either for damages for emotional  
33 injuries as a component of actual damages, or for  
34 administrative fines, or for both, the respondent may  
35 within 30 days after service of the accusation or amended  
36 accusation, elect to transfer the proceedings to a court in  
37 lieu of a hearing pursuant to subdivision (a) by serving a  
38 written notice to that effect on the department, the  
39 commission, and the person claiming to be aggrieved.



1 The commission shall prescribe the form and manner of  
2 giving written notice.

3 (2) No later than 30 days after the completion of  
4 service of the notice of election pursuant to paragraph  
5 (1), the department shall dismiss the accusation and shall,  
6 either itself or, at its election, through the Attorney  
7 General, file in the appropriate court an action in its own  
8 name on behalf of the person claiming to be aggrieved as  
9 the real party in interest. In this action, the person  
10 claiming to be aggrieved shall be the real party in interest  
11 and shall have the right to participate as a party and be  
12 represented by his or her own counsel. Complaints filed  
13 pursuant to this section shall be filed in the appropriate  
14 superior or municipal court in any county in which  
15 unlawful practices are alleged to have been committed,  
16 in the county in which records relevant to the alleged  
17 unlawful practices are maintained and administered, or  
18 in the county in which the person claiming to be  
19 aggrieved would have worked or would have had access  
20 to public accommodation, but for the alleged unlawful  
21 practices. If the defendant is not found in any of these  
22 counties, the action may be brought within the county of  
23 the defendant's residence or principal office. Those  
24 actions shall be assigned to the court's delay reduction  
25 program, or otherwise given priority for disposition by  
26 the court in which the action is filed.

27 (3) A court may grant as relief in any action filed  
28 pursuant to this subdivision any relief a court is  
29 empowered to grant in a civil action brought pursuant to  
30 subdivision (b), in addition to any other relief that, in the  
31 judgment of the court, will effectuate the purpose of this  
32 part. This relief may include a requirement that the  
33 employer conduct training for all employees, supervisors,  
34 and management on the requirements of this part, the  
35 rights and remedies of those who allege a violation of this  
36 part, and the employer's internal grievance procedures.

37 (4) The department may amend an accusation to pray  
38 for either damages for emotional injury or for  
39 administrative fines, or both, provided that the



1 amendment is made within 30 days of the issuance of the  
2 original accusation.

3 SEC. 13. Section 12970 of the Government Code is  
4 amended to read:

5 12970. (a) If the commission finds that a respondent  
6 has engaged in any unlawful practice under this part, it  
7 shall state its findings of fact and determination and shall  
8 issue and cause to be served on the parties an order  
9 requiring the respondent to cease and desist from the  
10 unlawful practice and to take action, including, but not  
11 limited to, any of the following:

12 (1) The hiring, reinstatement, or upgrading of  
13 employees, with or without backpay.

14 (2) The admission or restoration to membership in any  
15 respondent labor organization.

16 (3) The payment of actual damages as may be  
17 available in civil actions under this part, except as  
18 otherwise provided in this section. Actual damages  
19 include, but are not limited to, damages for emotional  
20 injuries if the accusation or amended accusation prays for  
21 those damages. Actual damages awarded under this  
22 section for emotional pain, suffering, inconvenience,  
23 mental anguish, loss of enjoyment of life, and other  
24 nonpecuniary losses shall not exceed, in combination with  
25 the amounts of any administrative fines imposed  
26 pursuant to subdivision (c), one hundred fifty thousand  
27 dollars (\$150,000) per aggrieved person per respondent.

28 (4) Notwithstanding paragraph (3), the payment of  
29 actual damages up to one hundred fifty thousand dollars  
30 (\$150,000) assessed against a respondent for a violation of  
31 Section 51.7 of the Civil Code, as an unlawful practice  
32 under this part.

33 (5) Affirmative or prospective relief to prevent the  
34 recurrence of the unlawful practice.

35 (6) A report to the commission as to the manner of  
36 compliance with the commission's order.

37 (b) An unlawful practice under this part alone is not  
38 sufficient to sustain an award of actual damages pursuant  
39 to this section. The department is required to prove, by  
40 a preponderance of the evidence, that an aggrieved



1 person has sustained actual injury. In determining  
2 whether to award damages for emotional injuries, and the  
3 amount of any award for these damages, the commission  
4 shall consider relevant evidence of the effects of  
5 discrimination on the aggrieved person with respect to  
6 any or all of the following:

- 7 (1) Physical and mental well-being.
- 8 (2) Personal integrity, dignity, and privacy.
- 9 (3) Ability to work, earn a living, and advance in his or  
10 her career.
- 11 (4) Personal and professional reputation.
- 12 (5) Family relationships.
- 13 (6) Access to the job and ability to associate with peers  
14 and coworkers.

15 The commission shall also consider the duration of the  
16 emotional injury, and whether that injury was caused or  
17 exacerbated by an aggrieved person's knowledge of a  
18 respondent's failure to respond adequately to, or to  
19 correct, the discriminatory practice or by the  
20 egregiousness of the discriminatory practice.

21 (c) In addition to the foregoing, in order to vindicate  
22 the purposes and policies of this part, the commission may  
23 assess against the respondent, if the accusation or  
24 amended accusation so prays, an administrative fine per  
25 aggrieved person per respondent, the amount of which  
26 shall be determined in accordance with the combined  
27 amount limitation of paragraph (3) of subdivision (a).

28 (d) In determining whether to assess an  
29 administrative fine pursuant to this section, the  
30 commission shall find that the respondent has been guilty  
31 of oppression, fraud, or malice, expressed or implied, as  
32 required by Section 3294 of the Civil Code. In  
33 determining the amount of fines, the commission shall  
34 consider relevant evidence of, including, but not limited  
35 to, the following:

- 36 (1) Willful, intentional, or purposeful conduct.
- 37 (2) Refusal to prevent or eliminate discrimination.
- 38 (3) Conscious disregard for the rights of employees.
- 39 (4) Commission of unlawful conduct.
- 40 (5) Intimidation or harassment.



1 (6) Conduct without just cause or excuse.

2 (7) Multiple violations of the Fair Employment and  
3 Housing Act.

4 The moneys derived from an administrative fine  
5 assessed pursuant to this subdivision shall be deposited in  
6 the General Fund. No administrative fine shall be  
7 assessed against a public entity. The commission shall  
8 have no authority to award punitive damages as a remedy  
9 for a finding of employment discrimination.

10 (e) In addition to the foregoing, in order to vindicate  
11 the purposes and policies of this part, the commission may  
12 assess against the respondent if the accusation or  
13 amended accusation so prays, a civil penalty of up to  
14 twenty-five thousand dollars (\$25,000) to be awarded to  
15 a person denied any right provided for by Section 51.7 of  
16 the Civil Code, as an unlawful practice prohibited under  
17 this part.

18 (f) If the commission finds the respondent has  
19 engaged in an unlawful practice under this part, and the  
20 respondent is licensed or granted a privilege by an agency  
21 of the state to do business, provide a service, or conduct  
22 activities, and the unlawful practice is determined to  
23 have occurred in connection with the exercise of that  
24 license or privilege, the commission shall provide the  
25 licensing or privilege granting agency with a copy of its  
26 decision or order.

27 (g) If the commission finds that a respondent has not  
28 engaged in an unlawful practice under this part, the  
29 commission shall state its findings of fact and  
30 determination and issue and cause to be served on the  
31 parties an order dismissing the accusation as to that  
32 respondent.

33 (h) Any findings and determination made or any  
34 order issued pursuant to this section shall be written and  
35 shall indicate the identity of the members of the  
36 commission who participated therein.

37 (i) Any order issued by the commission shall have  
38 printed on its face references to the rights of appeal of any  
39 party to the proceeding to whose position the order is  
40 adverse.





1 (j) If the commission finds that a respondent has  
2 engaged in an unlawful practice under this part, and it  
3 appears that this practice consisted of acts described in  
4 Section 243.4, 261, 262, 286, 288, 288a, or 289 of the Penal  
5 Code, the commission, with the consent of the  
6 complainant, shall provide the local district attorney's  
7 office with a copy of its decision and order.

8 (k) Notwithstanding Section 12960, if the commission  
9 finds that a respondent has engaged in unlawful  
10 discrimination in housing under Section 12948, the  
11 remedies afforded in Section 12987 or any other provision  
12 in this part pertaining to housing discrimination, shall  
13 apply.

14 SEC. 14. Section 12989.2 of the Government Code is  
15 amended to read:

16 12989.2. In a civil action brought under Section 12989  
17 or 12989.1, if the court finds that a discriminatory housing  
18 practice has occurred or is about to occur, the court may  
19 award the plaintiff or complainant actual and punitive  
20 damages and may grant other relief, including the  
21 issuance of a temporary or permanent injunction, or  
22 temporary restraining order, or other order, as it deems  
23 appropriate to prevent any defendant from engaging in  
24 or continuing to engage in an unlawful practice. The  
25 court may, at its discretion, award the prevailing party,  
26 other than the state, reasonable attorney's fees and costs,  
27 including expert witness fees, against any party other  
28 than the state.

29 SEC. 15. Section 12989.3 of the Government Code is  
30 amended to read:

31 12989.3. (a) Whenever the Attorney General has  
32 reasonable cause to believe that any person or group of  
33 persons is engaged in a pattern or practice of denying to  
34 others the full enjoyment of any of the rights granted by  
35 this article, or that any group of persons has been denied  
36 any of the rights granted by this article and that denial  
37 raises an issue of general public importance, the Attorney  
38 General shall commence a civil action in any court.

39 (b) Upon referral from the department, the Attorney  
40 General may commence a civil action in any appropriate



1 court for appropriate relief with respect to a  
2 discriminatory housing practice referred to the Attorney  
3 General by the department under subdivision (b) of  
4 Section 12981.

5 (c) A civil action under this section may be  
6 commenced not later than the expiration of 18 months  
7 after the date of the occurrence or termination of the  
8 alleged discriminatory housing practice.

9 (d) The Attorney General shall commence a civil  
10 action in any appropriate court for appropriate relief with  
11 respect to breach of a conciliation agreement referred to  
12 the Attorney General by the department. A civil action  
13 shall be commenced under this paragraph not later than  
14 the expiration of 90 days after the referral of the alleged  
15 breach.

16 (e) The Attorney General, on behalf of the  
17 department or other party at whose request a subpoena  
18 is issued, under this article, shall enforce that subpoena in  
19 appropriate proceedings in the court for the judicial  
20 district in which the person to whom the subpoena was  
21 addressed resides, was served, or transacts business.

22 (f) In a civil action under this section, the court may  
23 award any of the following:

24 (1) Preventive relief, including a permanent or  
25 temporary injunction, restraining order, or other order  
26 against the person responsible for a violation of this title  
27 as is necessary to assure the full enjoyment of the rights  
28 granted by this title.

29 (2) Other relief as the court deems appropriate,  
30 including monetary damages to persons aggrieved.

31 (3) A civil penalty in an amount not exceeding fifty  
32 thousand dollars (\$50,000), for a first violation, and in an  
33 amount not exceeding one hundred thousand dollars  
34 (\$100,000), for any subsequent violation.

35 (g) In a civil action under this section, the court, in its  
36 discretion, may allow the prevailing party, other than the  
37 state, reasonable attorney's fees and costs, including  
38 expert witness fees, against any party other than the state.

39 (h) Upon timely application, any person may  
40 intervene in a civil action commenced by the Attorney



1 General under this section that involves an alleged  
2 discriminatory housing practice with respect to which  
3 that person is an aggrieved person or a conciliation  
4 agreement to which that person is a party. The court may  
5 grant appropriate relief to any intervening party as is  
6 authorized to be granted to a plaintiff in a civil action  
7 under Section 12989.2.

8 SEC. 16. The amendments made by this act to Section  
9 51.5 of the Civil Code and to Sections 12926, 12927, and  
10 12955 of the Government Code do not constitute a change  
11 in, but are declaratory of existing law.

12 *SEC. 17. Section 5.1 of this bill incorporates*  
13 *amendments to Section 12926 of the Government Code*  
14 *proposed by both this bill and SB 1185. It shall only*  
15 *become operative if (1) both bills are enacted and*  
16 *become effective on or before January 1, 2000, (2) each*  
17 *bill amends Section 12926 of the Government Code, and*  
18 *(3) this bill is enacted after AB 1185, in which case Section*  
19 *5 of this bill shall not become operative.*

20 *SEC. 18. (a) Sections 11.1 and 11.2 of this bill*  
21 *incorporate amendments to Section 12955 of the*  
22 *Government Code proposed by both this bill and SB 1098.*  
23 *Sections 11.1 and 11.2 shall only become operative if (1)*  
24 *both bills are enacted and become effective on or before*  
25 *January 1, 2000, (2) each bill amends Section 12955 of the*  
26 *Government Code, (3) SB 1148 is not enacted or as*  
27 *enacted does not amend that section, and (4) this bill is*  
28 *enacted after SB 1098, in which case Sections 11, 11.3, 11.4,*  
29 *and 11.5, of this bill shall not become operative.*

30 *(b) Section 11.3 of this bill incorporates amendments*  
31 *to Section 12955 of the Government Code proposed by*  
32 *both this bill and SB 1148. Section 11.3 shall only become*  
33 *operative if (1) both bills are enacted and become*  
34 *effective on or before January 1, 2000, (2) each bill*  
35 *amends Section 12955 of the Government Code, (3) AB*  
36 *1670 is not enacted or as enacted does not amend that*  
37 *section, and (4) this bill is enacted after SB 1148, in which*  
38 *case Sections 11, 11.1, 11.2, 11.4, and 11.5 of this bill shall*  
39 *not become operative.*



1 (c) Sections 11.4 and 11.5 of this bill incorporate  
2 amendments to Section 12955 of the Government Code  
3 proposed by this bill, SB 1098, and SB 1148. Sections 11.4  
4 and 11.5 only become operative if (1) all three bills are  
5 enacted and become effective on or before January 1,  
6 2000, (2) all three bill amend Section 12955 of the  
7 Government Code, and (3) this bill is enacted after SB  
8 1148 and AB 1670, in which case Sections 11, 11.1, 11.2, and  
9 11.3, and of this bill shall not become operative.

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