

## WHAT LAWS PROHIBIT HOUSING DISCRIMINATION?

The United States Congress has power to pass laws on a federal level that prohibit discrimination. The first federal law that prohibited racial discrimination in housing was passed by Congress in 1866, right after the Civil War. This law makes it illegal to discriminate on the basis of race in the making of contracts and in the right to inherit, purchase, lease, sell, hold and convey real and personal property, including housing. The 1866 Civil Rights Act was not widely enforced until 1968, when the United States Supreme Court interpreted the statute to apply to private real estate transactions.

Also in 1968, Congress passed a comprehensive fair housing statute, and in 1988, Congress broadened the coverage of this statute. The 1968 Fair Housing Act, as amended in 1988, provides substantial remedies to many persons who are the victims of housing discrimination. Presently, it is a violation of the Fair Housing Act to discriminate on the basis of race, color, religion, gender, national origin, familial status (families with children), and disability.

The 1866 and 1968 statutes, as amended, do not exhaust the field. A number of other federal statutes can be applied when discrimination results from governmental action, when federal funds are involved, or in special circumstances, such as in mortgage lending cases. The United States Constitution itself generally prohibits discrimination but only when there is governmental action.

Nearly every state—including Florida—has some type of human rights act that prohibits housing discrimination. Also, many local governments, large and small cities, villages, and counties have enacted ordinances outlawing housing discrimination. Many of these statutes and ordinances have been declared by the federal government to be "substantially equivalent" to the federal Fair Housing Act. This means that the same rights and remedies exist under the state and local law as under the federal law. Some state and local laws provide greater protection than the federal laws. Therefore, it is important to check not only the federal law but also your state and local laws to know the parameters of all fair housing laws that apply to your apartment community.

*Housing discrimination can take many forms. The foregoing information is designed to explain the fair housing laws in everyday language and is not intended to be, and it should not be considered a substitute for professional legal advice or services when the need arises. Each situation has its own peculiarities and laws frequently change. Therefore, you should always seek the advice of legal counsel when a legal matter arises. Drake & Associates – 813-662-1536; [www.danielgdrake.com](http://www.danielgdrake.com)*

For example, the City of Tampa has enacted an ordinance that makes it illegal to discriminate in the provision of rental housing based upon “sexual orientation” and “age” in addition to the protected classes listed above. A copy of that ordinance is included in the Appendix.

Presently, the Fair Housing Act applies to any rental housing except (A) a dwelling with rooms or units intended to be occupied by no more than four families or persons, as long as the owner is one of the occupants and (B) a single family house sold or rented by the owner provided the owner does not own more than three such houses at one time and doesn't use the services of a real estate broker or agent.

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