

SLIDE 1 – COVER PAGE

SLIDE 2 – TOPICS

In this section we will cover the following topics:

- I. Federal Laws
 - Civil Rights Act
 - Americans with Disabilities Act
 - Interstate Land Sales Full Disclosure Act
- II. State Laws

SLIDE 3 – LEARNING OBJECTIVES

Upon completion of this lesson, you should be able to:

- Explain the significance of the Jones vs. Mayer court case
- List the real estate included under the different fair housing acts
- Recognize the groups protected under the 1968 Fair Housing Act
- List the property exempt from the 1968 Fair Housing Act
- Understand the provisions of the 1988 Fair Housing Amendment
- Describe the types of discriminatory acts that are prohibited under the 1968 Fair Housing Act

SLIDE 4 – LEARNING OBJECTIVES – (continued)

- Describe the HUD process for handling a complaint under the 1968 Fair Housing Act
- Describe the objectives and major provisions of the Americans with Disabilities Act
- Describe the major provisions of the Florida Residential Landlord and Tenant Act
- Describe the major provisions of the Interstate Land Sales Disclosure Act

SLIDE 5 – KEY TERMS

Here are some key terms we'll encounter in this lesson:

- **Blockbusting** – Inducing sale or rent based on incoming minorities that will lower values
- **Familial status** – No preference or exclusion based on family makeup
- **Handicap status** – No exclusions based on physical capabilities
- **Property report** – A disclosure document provided for developments with more than 25 lots that contains relevant information about the subdivision and any liens, titles or issues that the buyer can base the decision to continue with the purchase.

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- **Public accommodation** – An establishment that provides housing, food or other retail services to the public.
- **Redlining** – Not making loans in certain areas for discriminatory reasons
- **Subdivided land** – The act of dividing land into pieces that are easier to sell or develop, usually via a plat
- **Steering** – Channeling buyers to or away from neighborhoods

SLIDE 7 – Federal Laws

The first part of lesson 7 deals with a number of Federal laws relating to the practice of real estate. We'll discuss in length the Various versions of the Civil Rights Act which first passed in the year after the Civil War.

We'll discuss Jones V Mayer and the Federal Fair Housing act of 1968.

Then we'll look at other statues including the Housing and Community Development Act and the 1988 amendments to the Fair Housing Act.

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Civil Rights Act of 1866

April 9, 1866

The U.S. House overrode President Andrew Johnson's veto of the Civil Rights Bill of 1866, marking the first time Congress legislated civil rights.

The Civil Rights Act of 1866 granted citizenship and the same rights enjoyed by white citizens to all male persons in the United States "without distinction of race or color, or previous condition of slavery or involuntary servitude."

Unfortunately, over the next 100 plus years, the law was largely ignored. Federal penalties were not provided for in the legislation. Remedies were left to the individuals involved. Because those being discriminated against had limited access to legal help, this left many victims of discrimination without recourse.

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Civil Rights Act of 1866

Jones v. Mayer – SCOTUS (a court case in response to a St. Louis ordinance that forbade black housing ownership in a new housing area)

Jones (plaintiff) brought suit in federal district court against Alfred H. Mayer Co. (builder-defendant) alleging that Mayer refused to sell a house to Jones simply because Jones is African American. (Recall from the Civil Rights act of 1866, this discrimination should be a violation of Federal Law.

The case was ultimately argued before the Supreme Court in 1968.

The SCOTUS decision became a major driving force behind the Civil Rights Act of 1968. More commonly known as the Fair Housing Act.

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Civil Rights Act of 1964

President John F. Kennedy addressed the nation from the Oval Office on Jun 11, 1963 in what was to become known as his “Civil rights speech”, where he asked for legislation:

“...giving all Americans the right to be served in facilities which are open to the public—hotels, restaurants, theaters, retail stores, and similar establishments greater protection for the right to vote.”

Kennedy’s speech was in response to his use of the National Guard at the University of Alabama to uphold the desegregation decision and protect two African American students—Vivian Malone and James A. Hood.

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Civil Rights Act of 1964

Within days of Kennedy’s address, congress took up the matter of civil rights.

Following the assassination of JFK on November 22, 1963, in his first act as President, Lyndon Johnson addressed congress:

“No memorial oration or eulogy could more eloquently honor President Kennedy's memory than the earliest possible passage of the civil rights bill for which he fought so long.”

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Civil Rights Act of 1964

With much public support and modest resistance in the legislature, the act was signed into law by President Johnson on July 2, 1964.

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Civil Rights Act of 1964

The tenants of the legislation include:

- Authorized the US Government to end segregation in the South
- Prohibit segregation in places funded by the US Government. (effectively stating that any housing funded by federal dollars must be integrated.)
- Created the Equal Employment Opportunity Commission which enforces federal laws prohibiting workplace discrimination
- Withheld federal funding from segregated schools

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Civil Rights Act of 1968

On April 11 of 1968, seven days after the assassination of Dr. Martin Luther King, President Johnson signed into law the Civil Rights Act of 1968.

It is more commonly referred to as the **Fair Housing Act** and was meant as a follow-up to the Civil Rights Act of 1964.

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Fair Housing Act of 1968

The law prohibits discrimination in sales, leasing, advertising sales or rentals, financing or brokerage services. The protected classes are:

- Race
- Color
- Religion
- Sex
- National origin
- Handicap and
- Familial status both added in 1988

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Fair Housing Act of 1968

Handicap is defined as:

"Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment."

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Fair Housing Act of 1968

Familial status is defined as:

"A family in which one or more children under 18 live with a parent, or a person who has legal custody of the child or children, or the designee of the parent or legal custodian (with the parent or custodian's written permission)."

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Fair Housing Act of 1968

What are not protected classes under Federal Fair Housing:

- Marital status
- Age
- Occupation

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Fair Housing Act of 1968

The Federal Fair Housing act covers these categories of housing:

- Single-family
- Multifamily

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Fair Housing Act of 1968

There are four exceptions to the Federal Fair Housing act:
Sec. 803. (b)(1) & (c) - [42 U.S.C. 3603]

1. A person who owns no more than three (3) single-family dwellings is exempt.

Note: The homeowner may only claim this exemption once in a 24-month period.

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Fair Housing Act of 1968

There are four exceptions to the Federal Fair Housing act:
Sec. 803. (b)(2) - [42 U.S.C. 3603]

2. If an owner occupies as a residence of an apartment building with no more than four units, he or she is exempt.

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Fair Housing Act of 1968

There are four exceptions to the Federal Fair Housing act:
Sec. 807. (a) - [42 U.S.C. 3603]

3. Properties owned by religious organizations are exempt when:
 - Provided only for the benefit of members
 - Not for commercial purposes
 - Religious membership is not restricted on account of race, color, or national origin

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Fair Housing Act of 1968

There are four exceptions to the Federal Fair Housing act:
Sec. 807. (a) - [42 U.S.C. 3603]

4. A private club (such as the D.A.V. or American Legion) has property which is not open to the public is exempt if:
 - Lodging is provided only for the benefit of members
 - Not for commercial purposes

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Fair Housing Act of 1968

What is prohibited when dealing with protected classes:

- Refusing to sell or rent
- Quoting different terms
- Discriminatory advertising
- Steering - Channeling buyers to or away from neighborhoods
- Blockbusting - Inducing sale or rent based on incoming minorities that will lower values
- Redlining - Not making loans in certain areas
- Denying membership
- False statements regarding availability

It's important to understand that this law applies to all professionals involved in real estate transactions unless specific exemptions are claimed. This includes: Loan originators, lenders, appraisers, brokers and sales agents.

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Fair Housing Act of 1968

There is a stipulation in the Federal Fair Housing act with regards to housing for seniors: Sec. 807. (1), (2) & (3) - [42 U.S.C. 3603]

The familial status protection of the code does not apply when:

- Housing is occupied only by persons 62 years or older
- The facility is designed for older persons
- 80% of the units house at least one adult aged 55 or older

So retirement communities would be exempt from the familial section of the Fair Housing Act if they meet the above exemptions.

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Fair Housing Act of 1968

The Equal Housing poster must be displayed in real estate offices, model homes, and mortgage lending offices.

Failure to display the poster of the Equal Opportunity logo can be considered by a court of law as evidence of discrimination.

A copy of the poster suitable for printing is provided in the download resources for this lesson.

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Fair Housing Act of 1968

Discrimination complaints are easily filed at the HUD website.

The discrimination complaint will be reviewed by a fair housing specialist to determine if the alleged acts violate the Fair Housing Act.

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If HUD determines a violation has occurred, they can appoint Administrative Law Judge who can impose penalties on the respondent, such as:

- Order compensation to claimant be paid for actual damages, including pain and suffering.
- Impose fines up to \$16,000 (1st violation), \$70,000 (3rd violation)
- Order housing be made available

The administrative hearing should be held within 120 days from the HUD decision.

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Fair Housing Act of 1968

Either the claimant or the respondent can ask that the case be heard in Federal District Court.

The Attorney General would then file suit on behalf of the claimant and litigate on their behalf.

Like the ALA, the District Court can order relief, and award actual damages, attorney's fees and costs.

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Fair Housing Act of 1968

Any person who thinks they have been discriminated against has the option to file suit, at their expense, in Federal District Court or State Court.

The filing must occur within two (2) years, unless a claim has been made through HUD. In that case the suit must be filed with one (1) year.

A court may award actual and punitive damages and attorney's fees and costs.

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Fair Housing Act of 1968

For Brokers and Sales Agents

Brokers and sales agents are also obligated and responsible for their actions. They should be well acquainted with Fair Housing laws.

Licensees should never bring into any discussion the race, color, religion, national origin, familial status or handicap of any potential buyer, seller, or rental tenant.

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Fair Housing Act of 1968

For Brokers and Sales Agents

Brokers should never accept a listing from an owner who is asking for a circumstance that would violate Fair Housing laws.

Brokers will also be held accountable for any discriminatory activities of the licensees they supervise.

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Americans with Disabilities Act (ADA)

Congress passed the ADA into law in 1990 to prohibit discrimination and ensure equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation.

In essence, a disabled person must be given the same treatment as any able-bodied person.

In 2011 the regulations were updated to include the ADA Standards for Accessible Design.

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Americans with Disabilities Act (ADA)

The ADA set standards for new construction and renovation of public accommodations and other commercial buildings.

The regulations spell out specific design requirements related to parking, building accessibility, ramps, stairs, doors, bathrooms, signage and counter heights.

We have included a PDF that shows common errors in new construction and renovations that violate the ADA.

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Interstate Land Sales Full Disclosure Act (ILSA)

The ILSA was passed in 1968 to regulate interstate land sales, to protect consumers from fraud and abuse in the sale or lease of land.

Developers must provide a property report to prospective buyers within three (3) days if the property includes more than 25 lots.

The buyer has the option to revoke the purchase contract up to midnight on the seventh day following the date of contract.