**Unit 21 Outline**

**Fair Housing and Ethical Practices**

**Outline**

I. Equal Opportunity in Housing

A. The purpose of civil rights laws is to create a marketplace in which all persons of similar financial means have a similar range of housing choices.

IN ILLINOIS . . . *The Real Estate License Act of 2000 and its General Rules require that all licensees in Illinois fully adhere to the principles of equal opportunity in housing. In addition to the provisions contained in the license act, the rules established by the IDFPR prohibit a licensed broker from taking any listing or participating in any transaction in which the owner of the property seeks to apply discriminatory standards based on race, color, creed, religion, national origin, sex, disability, or familial status.*

*Failure to comply with fair housing laws is not only a criminal act, but it is also grounds for disciplinary action against the licensee. Violations of the provisions or restrictions of the Illinois act or the rules can result in the revocation, suspension, or nonrenewal of the violator’s license or in censure, reprimand, or fine imposed by the IDFPR.*

*The license act requires that when there has been a judgment in either a civil or criminal proceeding that a licensee has illegally discriminated, his or her license must be suspended or revoked, unless the proceeding is still in the appeals process. If there has been an order by an administrative agency finding discrimination by a licensee, the board must also penalize the licensee.*

*Many cities and villages in Illinois have their own fair housing laws. These laws are enforced on the local level and may take precedence over federal laws when the local law has been ruled substantially equivalent to the federal statute. Many local fair housing laws are stricter or broader than state or federal laws.*

II. Fair Housing Act

A. Laws

1. The Civil Rights Act of 1866 prohibited discrimination in housing based on race or color.

2. Title VIII of the Civil Rights Act of 1968: prohibits discrimination in housing based on race, color, religion, or national origin.

3. Housing and Community Development Act: added discrimination based on sex in 1974.

4. Fair Housing Amendments Act: included disability and familial status in 1988.

5. The act also prohibits discrimination against individuals because of their association with persons in the protected classes.

B. Administration. The Fair Housing Act is administered by the Department of Housing and Urban Development (HUD). HUD has established rules and regulations that further interpret the practices affected by the law.

1. HUD distributes an equal housing opportunity poster to be prominently displayed in the broker’s office.

C. Definitions

1. Housing—Dwelling which includes any building or part of a building designed for occupancy as a residence by one or more families. This includes a single-family house, a condominium, a cooperative, and manufactured housing, as well as vacant land on which any of these structures will or can be built.

2. Familial status—The presence of one or more individuals who have not reached the age of 18 and live with either a parent or guardian, including a pregnant woman, a parent with temporary custody of a child, or someone seeking foster care status for a child.

3. Disability—A physical or mental impairment that substantially limits one or more of an individual’s major life activities

 a. Persons with AIDS are protected under this classification.

b. Persons who are current users of illegal or controlled substances are not protected under this law; those who are participating in addiction recovery programs are.

c. People with disabilities must be permitted to make reasonable modifications to the premises at their own expense

d. For new construction of certain multifamily properties, a number of accessibility and usability requirements must be met under federal law.

 D. Protected Classes

1. Race
2. Color
3. Religion
4. Sex
5. Natural Origin
6. Familial Status
7. Disability

E. Exemptions to the Fair Housing Act—No exemptions are allowed if discriminatory advertising is used or when a real estate licensee is involved in this transaction.

1. The *Fair Housing Act* exempts:

1. Owner occupied 4 units or less
2. No discrimination based on race
3. No discriminating ads
4. No broker involved in the transaction
5. Housing for older persons

F. Americans with Disabilities Act (ADA)—The ADA requires reasonable accommodations in employment and access to goods, services, and public buildings.

1. Title I

2. Title III

 G. Enforcement of the Fair Housing Act

1. The Office of Fair Housing and Equal Opportunity (OFHEO) administers the federal Fair Housing Act under direction of the secretary of the HUD

III. Fair Housing Violations

A. Blockbusting—Encouraging people to immediately list and sell their homes by claiming that the entry of a protected class of people into the neighborhood will have some sort of negative impact on property values.

B. Steering—Steering or channeling of home seekers to or away from particular neighborhoods, either to preserve the demographic character of a neighborhood or to change its character intentionally is a prohibited act.

IN ILLINOIS . . . *The Illinois Real Estate License Act prohibits “Influencing or attempting to influence by any words or acts a prospective seller, purchaser, occupant, landlord or tenant of real estate, in connection with viewing, buying or leasing of real estate, so as to promote, or tend to promote, the continuance or maintenance of racially and religiously segregated housing, or so as to retard, obstruct or discourage racially integrated housing on or in any street, block, neighborhood or community.”*

C. Advertising—No advertisement of property for sale or rent may include language indicating a preference or limitation.

D. Appraising—Race, color, religion, national origin, sex, disability, and familial status are not factors that may be considered in preparing appraisals or any statements of valuation (including a comparative market analysis). However, an advertisement that is gender specific, such as “female roommate sought,” is allowed as long as the advertiser seeks to share living quarters with someone of the same gender.

E. Redlining—Refusing to make mortgage loans or issue insurance policies in specific areas for reasons other than the economic qualifications of the applicants is known as redlining. The Federal Home Mortgage Disclosure Act requires extensive reporting requirements related to location of properties that have been financed by the lender.

F. Intent and Effect—Policies or practices resulting in unequal treatment of persons in the protected classes are considered discriminatory regardless of any innocent intent. The courts will analyze whether the effect of your actions created a “chilling” effect for potential buyers and renters.

1. Disparate Treatment

2. Disparate Impact

G. The Illinois Human Rights Act

 1. Protected classes – more than federal law

1. All seven federal
2. Sexual Orientation
3. Order of Protection
4. Military status, regardless of honorable or dishonorable discharge
5. Age (40+)
6. Marital Status
7. Ancestry

 2. Exemptions

H. Threats or acts of violence

IV. Fair Housing and Ethical Practices

A. Implications for brokers and salespeople

B. Professional ethics

 1. Code of ethics