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AB-948 Bureau of Real Estate Appraisers: disclosures: demographic information: reporting: continuing education. (2021-2022)

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Assembly Bill No. 948

CHAPTER 352

An act to amend Sections 11340 and 11360 of, and to add Sections 11310.3 and 11424 to, the Business and Professions Code, to add Section 1102.6g to the Civil Code, and to amend Section 12955 of the Government Code, relating to real estate.

[Approved by Governor September 28, 2021. Filed with Secretary of State September 28, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 948, Holden. Bureau of Real Estate Appraisers: disclosures: demographic information: reporting: continuing education.

Existing law, the Real Estate Appraisers' Licensing and Certification Law, creates a Bureau of Real Estate Appraisers within the Department of Consumer Affairs to administer and enforce that law. Existing law requires the protection of the public to be the highest priority for the bureau in exercising its licensing, regulatory, and disciplinary functions.

This bill, among other things, would require the bureau to place on an existing complaint form a check box asking if the complainant believes that the opinion of the value of the real estate is below market value. The bill would also require the bureau to collect specified demographic information, voluntarily provided, regarding sellers, those seeking to refinance, buyers, or an authorized representative in real estate transactions making a complaint. The bill would require the bureau to compile the collected demographic information and report that information to the Legislature on or before July 1, 2024.

This bill would prohibit a licensee from basing their appraisal of the market value of a property on the basis of race, color, religion, gender, gender expression, age, national origin, disability, marital status, source of income, sexual orientation, familial status, employment status, or military status of either the present or prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property, or on any other basis prohibited by the federal Fair Housing Act.

Existing law requires the Chief of the Bureau of Real Estate Appraisers to adopt regulations governing the process and procedures for applying for a license, including education and experience equivalency, and for renewal of a license, including, but not limited to, continuing education requirements on a 4-year cycle.

This bill would require, beginning January 1, 2023, an applicant to complete at least one hour of instruction in cultural competency, as defined. The bill, as part of the continuing education requirement in order to renew a license or restore a license to active status, would require for each licensee renewing on or after January 1, 2023, at least 2 hours of elimination of bias training. Beginning January 1, 2023, a licensee would be required to complete at least one hour of instruction in cultural competency every 4 years.

Existing law requires that specified disclosures be made upon transfer by sale, exchange, real property sales contract, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of any single-family residential property.

This bill, after July 1, 2022, would require that every contract for the sale of single-family residential real property contain a notice stating that any appraisal of the property is required to be unbiased, objective, and not influenced by improper or illegal considerations. The bill would require the notice to include information regarding reporting biased appraisals to the financial institution or mortgage broker that hired the appraiser or the Bureau of Real Estate Appraisers. The bill would also require the notice to be delivered by a licensed person, as defined, refinancing a first lien purchase money loan secured by residential real property containing no more than 4 dwelling units either prior to, or with, the loan estimate or the mortgage loan disclosure statement.

Existing law, the California Fair Employment and Housing Act, prohibits housing discrimination, including discrimination through public or private land use practices, decisions, or authorizations, and based on specified personal characteristics. Existing law makes it unlawful for any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of specified personal characteristics.

This bill would make it unlawful for any person or other entity whose business includes performing appraisals of residential real property to discriminate against any person in making available those services, or in the performance of those services, because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, source of income, disability, genetic information, veteran or military status, or national origin.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the Fair Appraisal Act.

SEC. 2. Section 11310.3 is added to the Business and Professions Code, to read:

11310.3. (a) It is the intent of the Legislature, in enacting this section, to ensure that no one is discriminated against during the appraisal process of a real estate transaction.

(b) The bureau, on its existing complaint form, shall create a check box asking if the complainant believes the opinion of the value of the real estate is below the market value. The bureau shall collect demographic information regarding sellers, those seeking to refinance, buyers, or a representative authorized in real estate transactions making a complaint, including, but not limited to, their identity within a protected class as listed in the notice described in Section 1102.6g of the Civil Code. This information shall be provided on a voluntary basis by the sellers, those seeking to refinance, the buyers, or by a representative authorized in real estate transactions. The information may include a contact telephone number, email address if available, and home address of the complainant.

(c) (1) The bureau shall compile data on the identity within a protected class of the sellers, those seeking to refinance, the buyers, or an authorized representative who believes the opinion of the value of the real estate is below the market value. The bureau complaint form shall allow the complainant to select their identity within the protected classes as follows:

(A) By using a drop-down menu, if on an internet website.

(B) By checking boxes, if on a paper form.

(2) It is the intent of the Legislature that the complaint form shall be short, simple, and easy to complete. Consistent with that intent, the bureau may, at its discretion, include an option for the complainant to select "other" for any protected class for which listing every possible identity within the protected class would render the form excessively lengthy, complex, or difficult to complete.

(d) The bureau shall confirm that the complainant is the seller, someone seeking to refinance, the buyer, or a representative authorized in real estate transactions by the contact information provided in subdivision (b). An authorized representative shall provide a contact telephone number, email address if available, and home address of the person that provided the authorization.

(e) (1) On or before July 1, 2024, the bureau shall report to the Legislature in the aggregate the information collected and compiled pursuant to subdivisions (b) and (c).

(2) A report submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 3. Section 11340 of the Business and Professions Code is amended to read:

11340. The director shall adopt regulations governing the process and the procedure of applying for a license that shall include, but not be limited to, necessary experience or education, equivalency, and minimum requirements of the Appraisal Foundation, if any.

(a) For purposes of the educational background requirements established under this section, the director shall do both of the following:

(1) Grant credits for any courses taken on real estate appraisal ethics or practices pursuant to Section 10153.2, or that are deemed by the director to meet standards established pursuant to this part and federal law.

(2) Require the completion of a course on state and federal laws regulating the appraisal profession, as approved by the bureau every two years. The course shall include an examination that requires an applicant to demonstrate the applicant's knowledge of those laws.

(b) For the purpose of implementing and applying this section, the director shall prescribe by regulation "equivalent courses" and "equivalent experience." The experience of employees of an assessor's office or of the State Board of Equalization in setting forth opinions of value of real property for tax purposes shall be deemed equivalent to experience in federally related real estate appraisal activity. Notwithstanding any other law, a holder of a valid real estate broker license shall be deemed to have completed appraisal license application experience requirements upon proof that the applicant has accumulated 1,000 hours of experience in the valuation of real property.

(c) The director shall adopt regulations for licensure that shall meet, at a minimum, the requirements and standards established by the Appraisal Foundation and the federal financial institutions regulatory agencies acting pursuant to Section 1112 of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA) (Public Law 101-73). The director shall, by regulation, require the application for a real estate appraiser license to include the applicant's social security number or individual taxpayer identification number.

(d) In evaluating the experience of any applicant for a license, regardless of the number of hours required of that applicant, the director shall apply the same standards to the experience of all applicants.

(e) (1) Beginning January 1, 2023, in addition to the requirements set forth in this section, an applicant for licensure shall complete at least one hour of instruction in cultural competency.

(2) For purposes of this section, "cultural competency" means understanding and applying cultural and ethnic data to the process of providing services that includes, but is not limited to, information on the appropriate services for lesbian, gay, bisexual, transgender, and intersex communities, ethnic communities, and religious communities.

(f) No license shall be issued to an applicant who is less than 18 years of age.

(g) The cost of any educational course required by this section shall not be borne by any client served by a licensee.

SEC. 4. Section 11360 of the Business and Professions Code is amended to read:

11360. (a) The director shall adopt regulations governing the process and procedures for renewal of a license or restoration of a license to active status that shall include, but not be limited to, continuing education requirements, which shall be reported on the basis of a four-year continuing education cycle, and, for each licensee renewing on or after January 1, 2023, include at least two hours of elimination of bias training, either individually or as part of a broader course.

(b) An applicant for renewal of a license shall be required to demonstrate the applicant's continuing fitness to hold a license prior to its renewal. Applicants shall also fulfill continuing education requirements established pursuant to this section and shall be required to take a minimum of four hours of federal and California appraisal related statutory and regulatory law every four years.

(c) Beginning January 1, 2023, as part of the continuing education required by this section, a licensee shall complete at least one hour of instruction in cultural competency every four years.

(d) The cost of any educational course required by this section shall not be borne by any client served by a licensee.

(e) For purposes of this section, "cultural competency" means understanding and applying cultural and ethnic data to the process of care that includes, but is not limited to, information on the appropriate treatment of, and provision of care to, the lesbian, gay, bisexual, transgender, and intersex communities, ethnic communities, and religious communities.

SEC. 5. Section 11424 is added to the Business and Professions Code, to read:

11424. (a) Licensees shall not base, either partially or completely, their analysis or opinion of market value on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, source of income, sexual orientation, familial status, employment status, or military status of either the present or prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property, or on any other basis prohibited by the federal Fair Housing Act.

(b) The provisions of Section 10185 do not apply to this section.

SEC. 6. Section 1102.6g is added to the Civil Code, to read:

1102.6g. (a) After July 1, 2022, every contract for the sale of real property shall contain, in no less than 8-point type, the following notice:

"Any appraisal of the property is required to be unbiased, objective, and not influenced by improper or illegal considerations, including, but not limited to, any of the following: race, color, religion (including religious dress, grooming practices, or both), gender (including, but not limited to, pregnancy, childbirth, breastfeeding, and related conditions, and gender identity and gender expression), sexual orientation, marital status, medical condition, military or veteran status, national origin (including language use and possession of a driver's license issued to persons unable to provide their presence in the United States is authorized under federal law), source of income, ancestry, disability (mental and physical, including, but not limited to, HIV/AIDS status, cancer diagnosis, and genetic characteristics), genetic information, or age. If a buyer or seller believes that the appraisal has been influenced by any of the above factors, the seller or buyer can report this information to the lender or mortgage broker that retained the appraiser and may also file a complaint with the Bureau of Real Estate Appraisers at <https://www2.brea.ca.gov/complaint/> or call (916) 552-9000 for further information on how to file a complaint."

(b) The notice described in subdivision (a) shall also be delivered by a licensed person refinancing a first lien purchase money loan secured by residential real property containing no more than four dwelling units, either prior to, or with, the loan estimate as required by the federal Truth in Lending Act, as amended (15 U.S.C. Sec. 1601 et seq.), or the mortgage loan disclosure statement as required pursuant to Section 10240 of the Business and Professions Code. The notice described in subdivision (a) may be included as part of the disclosure required under Section 1002.14(a)(2) of the federal Equal Credit Opportunity Act (Regulation B) (12 C.F.R. Sec. 1002 et seq.).

(c) For purposes of this section, a "licensed person" means a depository institution chartered under federal or state law, a person covered by the licensing requirements of Division 9 (commencing with Section 22000) or Division 20 (commencing with Section 50000) of the Financial Code, or a person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code.

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

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, veteran or military status, or genetic information of any person seeking to purchase, rent, or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information or an intention to make that preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, gender, gender identity, gender expression, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, genetic information, source of income, veteran or military status, or on any other basis prohibited by that section. Selection preferences based on age, imposed in connection with a federally approved housing program, do not constitute age discrimination in housing.

(e) For any person, bank, mortgage company, or other financial institution that provides financial assistance for the purchase, refinance, organization, or construction of any housing accommodation to discriminate against any person or group of persons

because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

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

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

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

(i) (1) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, source of income, familial status, disability, veteran or military status, or genetic information.

(2) For any person or other entity whose business includes performing appraisals, as defined in subdivision (b) of Section 11302 of the Business and Professions Code, of residential real property to discriminate against any person in making available those services, or in the performance of those services, because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, source of income, disability, genetic information, veteran or military status, or national origin.

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

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, source of income, disability, genetic information, veteran or military status, or national origin.

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

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void.

(m) As used in this section, "race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information," includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

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

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

(p) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant, or to a representative of a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance, and federal, state, or local housing subsidies, including, but not limited to, federal housing assistance vouchers issued under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f). "Source of income" includes a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher. For the purposes of this section, a

housing owner or landlord is not considered a representative of a tenant unless the source of income is a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher.

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