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FEDERAL AND STATE LAWS  
PERTAINING TO REAL  
ESTATE

1 **LEARNING OBJECTIVES**

2 *When you have completed this unit, you will be able to accomplish the following.*

- 3 ■ Describe the features of the Civil Rights Acts of 1866, 1964, and 1968 and explain the significance of the
- 4 *Jones v. Mayer* court case.
- 5 ■ List the property exempt from the 1968 Fair Housing Act and describe the types of discriminatory acts
- 6 that are prohibited under the Fair Housing Act.
- 7 ■ Describe the objectives and major provisions of the Americans with Disabilities Act.
- 8 ■ Describe the major provisions of the Interstate Land Sales Full Disclosure Act.
- 9 ■ Describe the provisions of the Florida Residential Landlord and Tenant Act.

10 **KEY TERMS**

blockbusting	Fair Housing Act	public accommodations
Civil Rights Act of 1866	familial status	redlining
disability	property report	steering

11 **INTRODUCTION**

12 For many families, the purchase of a home is the largest single investment they will

13 make during their lifetime. The federal government and all state governments have

14 enacted laws to ensure that the public interest in real estate is adequately protected.

15 This unit highlights some of the laws most important to Florida real estate practitioners.

16 Licensees should study these laws to make certain they comply with these laws in order to

17 better serve the public.

18 **7.1 FEDERAL FAIR HOUSING LAW**

19 **Civil Rights Act of 1866**

20 The **Civil Rights Act of 1866** prohibits any type of discrimination based on race in

21 any real estate transaction (sale or rental) without exception (see Figure 7.1). This law

22 is still in force today. A suit can be filed in a federal court under the 1866 Civil Rights

23 Act. The court may award actual (monetary) damages and punitive damages for racial

24 discrimination.

**FIGURE 7.1 ■ Protections Under Civil Rights Acts and Fair Housing Act**

Law	Type of Real Estate	Protected Class
Civil Rights Act of 1866	All real estate (residential and commercial)	Race only
Civil Rights Act of 1964	Public accommodations and public facilities	Race, color, religion, and national origin; Ended racial segregation
Fair Housing Act (as amended)	Sale or rental of single-family and multifamily residential property, including advertising sales and rentals, financing, and brokerage services	Race, color, religion, sex, national origin, familial status, and disability

1        42 U.S.C. § 1982 states that “all citizens of the United States shall have the same  
2 right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, pur-  
3 chase, lease, sell, hold, and convey real and personal property.”

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4        To read about the Civil Rights Act of 1866, visit <http://law.cornell.edu/uscode/text/42/1982>.  
5

6        **Jones v. Mayer.** Joseph Lee Jones filed a complaint in 1965 in district court alleging  
7 that Alfred H. Mayer Company had refused to sell him a home because he was black. The  
8 famous legal case *Jones v. Alfred H. Mayer Company* reached the U.S. Supreme Court in  
9 1968. The court upheld the Civil Rights Act of 1866, which prohibits all racial discrimi-  
10 nation without exception. The Supreme Court declared that the 1866 act still applies  
11 today and that it prohibits all racial discrimination (public and private) in the sale of all  
12 real property (residential and commercial). Remember, when race is involved, no exemp-  
13 tions apply. This court decision allows a person who has experienced discrimination on  
14 the basis of race to sue the individuals who committed the alleged discrimination despite  
15 certain exemptions in the Civil Rights Act of 1968 (discussed later) when the discrimina-  
16 tion is based on race.

**Civil Rights Act of 1964 (Titles II and III)**

17  
18        The Civil Rights Act of 1964 was landmark legislation that ended racial segregation  
19 in schools, workplaces, and public accommodations. Title II of the 1964 act prohibits  
20 discrimination on the basis of race, color, religion, and national origin in places of public  
21 accommodation engaged in interstate commerce, including hotels, motels, restaurants,  
22 gas stations, and places of entertainment. Title III prohibits state and municipal govern-  
23 ments from denying access to public facilities on the grounds of race, color, religion, or  
24 national origin (see Figure 7.1).

**Civil Rights Act of 1968: The Fair Housing Act**

25  
26        The **Fair Housing Act** (Act) is contained in Title VIII of the Civil Rights Act of  
27 1968. The Fair Housing Act of 1968, including amendments, prohibits discrimination  
28 on the basis of race, color, religion, sex, and national origin when selling or renting resi-  
29 dential property. This law covers residential dwellings and apartments (single-family and  
30 multifamily), as well as vacant land acquired for the purpose of constructing residential  
31 dwellings. The act prohibits discrimination in sales, leasing, advertising sales or rentals,  
32 financing, and brokerage services.

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1 Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) is published in the  
 2 United States Code and is available at [https://www.law.cornell.edu/uscode/text/42/  
 3 chapter-45/subchapter-I](https://www.law.cornell.edu/uscode/text/42/chapter-45/subchapter-I).

4 **Fair Housing Amendments Act.** In 1988, Congress amended the Fair Housing Act of  
 5 1968 to include two additional protected classes: **familial status** and **disability**. The Fair  
 6 Housing Act, as amended, prohibits discrimination in sales, leasing, the advertising of  
 7 sales and rentals, financing, and brokerage services. Today, the Fair Housing Act includes  
 8 seven protected classes: race, color, religion, sex, disability, familial status, and national  
 9 origin. The protected classes are described in detail in Figure 7.2.

10 **Sexual Orientation and Gender Identity.** In 2021, President Biden signed an executive  
 11 order requiring the Department of Housing and Urban Development (HUD) to enforce  
 12 the Fair Housing Act to prohibit discrimination based on sexual orientation and gender  
 13 identity. HUD extended the protections based on sex discrimination to include sexual  
 14 orientation and gender identity.

**FIGURE 7.2 ■ Fair Housing Protected Classes**

Protected Class	Description
Race	A family, tribe, or group of people coming from the same common ancestors. For example, a seller instructs the real estate associate to find another buyer because the buyer making an offer to purchase is African American.
Color	Pigmentation or shade of a person's skin. For example, a person is discriminated against because of albinism.
Religion	One's spiritual beliefs. For example, discrimination against a person of Islamic faith.
Sex	Sexual orientation, gender, gender identity, and sexual harassment. A landlord may not take into account one's gender identity as a condition of renting an apartment.
Disability	Physical or mental impairments that limit major life activities. For example, refusing to allow a disabled individual to have a service animal live in the apartment.
Familial status	Families with one or more children under 18 and pregnant women. For example, requiring families with young children to rent apartments only on the first floor of a midrise building.
National origin	The country of birth or from which a person's ancestors came. For example, discrimination against an individual because the individual's last name is of Greek origin.

15 **Discrimination in General.** Legal forms of discrimination are present in everyday society.  
 16 Some property owners may discriminate against smokers by refusing to rent to tenants who  
 17 smoke. To refuse to rent to smokers is not illegal. However, when discrimination is directed  
 18 at a "protected class" that is designated under law, it is illegal. There are many characteristics  
 19 and behaviors that have no protection. For example, pet ownership is not a protected class.

20 State and local governments may expand the classes afforded fair housing protection in  
 21 their jurisdiction. Provided a state includes the seven protected classes of the federal Fair  
 22 Housing Act, the state may include additional categories. If a county or a city decides to pass  
 23 a fair housing ordinance, it must include the protected classes designated under its state's fair  
 24 housing statute. Because protected classes for fair housing vary from jurisdiction to jurisdiction,  
 25 it is important that the licensee be familiar with the laws enacted at each level of government.

26 There are some categories of people that in some situations are considered protected  
 27 classes and in other settings are not. For example, no protection is given under the Fair  
 28 Housing Act to individuals based on age, occupation, and marital status. However, there  
 29 are federal laws that protect people based on age and marital status when seeking credit  
 30 (see "Equal Credit Opportunity Act," Unit 13).

1 **Equal Housing Opportunity Poster.** The 1988 amendment also created the equal housing  
 2 opportunity poster. The poster features the equal housing logo and a statement pledg-  
 3 ing adherence to the Fair Housing Act. The poster is available without charge from the  
 4 Department of Housing and Urban Development (HUD). The poster must be displayed  
 5 at real estate offices and other businesses involved in the housing industry. In the event a  
 6 discrimination complaint is made against a broker, HUD considers failure to prominently  
 7 display the equal housing opportunity poster in the broker's place of business as evidence  
 8 of discrimination.



9 For additional information regarding the Fair Housing poster and other outreach mate-  
 10 rials offered by HUD, visit [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/](https://www.hud.gov/program_offices/fair_housing_equal_opp/outreachtools)  
 11 outreachtools (scan QR code).

### Practice Questions

1. Circle the corresponding letter to indicate the protected classes under the Fair Housing Act, as amended.
  - a. Familial status
  - b. Age
  - c. Religion
  - d. Marital status
  - e. National origin
2. The equal housing opportunity poster must be displayed at real estate \_\_\_\_\_ and other businesses involved in the \_\_\_\_\_ industry.
3. When \_\_\_\_\_ is involved in \_\_\_\_\_ real estate transaction, there are no exceptions.
4. The Civil Rights Act of 1866 prohibits discrimination based on \_\_\_\_\_ in both \_\_\_\_\_ and \_\_\_\_\_ real estate.
5. The Fair Housing Act is contained in the \_\_\_\_\_ of \_\_\_\_\_.

## 7.2 PROVISIONS OF THE FAIR HOUSING ACT AS AMENDED

13 The Fair Housing Act applies to single-family residential property and multifamily  
 14 housing. Commercial property is not covered under the Fair Housing Act.

### Residential Real Estate Transactions Covered Under the Fair Housing Act

16 The Fair Housing Act, as amended, covers the following residential real estate:

- 17 ■ Government owned residential property
- 18 ■ Privately owned residential property if a broker is employed to sell or rent the  
 19 property
- 20 ■ Single-family homes owned by a business entity (such as a development corpora-  
 21 tion or partnership)
- 22 ■ Sale or rental of single-family property by an individual who owns four or more  
 23 houses
- 24 ■ Multifamily housing of five or more units
- 25 ■ Multifamily housing of four or fewer units, if the owner does not reside in one of  
 26 the units

## Residential Real Estate Transactions Exempted Under the Fair Housing Act

Certain residential real estate transactions are exempted under Fair Housing Act provided a real estate brokerage was not involved in the transaction and no discriminatory advertising was used to market the property:

1. The sale or rental of a single-family residential property, provided the seller does not own more than three dwellings, and no more than one house is sold during a two-year period in which the owner was not the most recent resident.
2. Rental of multifamily residential property of four or fewer units and the owner resides in one of the units.

Discriminatory advertising includes print ads, billboards, direct mail, and promotional materials such as flyers and handouts. Remember, even though the previous transactions are exempted under the Fair Housing Act, discriminatory advertising may not be used. Any advertising that implies preference against one of the protected classes is a violation of the Fair Housing Act. Furthermore, if racial discrimination occurs in any real estate transaction, the individual may be liable under the Civil Rights Act of 1866.

**EXAMPLE:** A property owner owns a four-unit multifamily dwelling. The owner lives in one of the units. The owner advertises a vacant unit for rent, stating that no children are allowed because the existing residents are all couples with no children.

The owner resides in one of the units in a four-unit multifamily dwelling. The rental transaction would be exempt from the Fair Housing Act, *provided* the owner did not use discriminatory advertising to market the unit. Advertising that no children are allowed is discriminatory advertising against a protected class (familial status).

**Housing for Older Persons.** Certain housing for older persons is exempt from the familial status protection under the Fair Housing Act, provided:

- all units are occupied by persons 62 years of age or older; or
- at least 80% of the units are occupied by one or more persons 55 years of age or older, and housing policies are published and followed that demonstrate an intent to be housing for persons 55 and older.

**Special Exemptions Under the Act.** Housing operated by religious organizations and private clubs is exempt from the Fair Housing Act, provided the housing is not operated for commercial purposes:

- Religious organizations may restrict dwelling units they own or operate to members of their religion if the organization does not otherwise discriminate in accepting its membership.
- Private clubs may restrict rental or occupancy of its units to its members.

**Prohibited Activities.** Discrimination against any of the protected classes in the sale or rental of housing, financing of housing, or the provision of brokerage services is illegal. It is a violation of the Fair Housing Act to do any of the following activities:

- Channel home seekers to or away from particular neighborhoods because they are members of a protected class (commonly called **steering**)
- Use the entry, or rumor of the entry, of a protected class into a neighborhood to persuade owners to sell (commonly called **blockbusting**)

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- 1 ■ Deny loans or insurance coverage by a lender or an insurer that present differ-  
2 ent terms or conditions for homes in certain neighborhoods (commonly called  
3 **redlining**)
- 4 ■ Refuse to rent to, sell to, negotiate with, or deal with a member of a protected  
5 class
- 6 ■ Quote different terms, conditions, or privileges for buying or renting
- 7 ■ Advertise that housing is available only to people of a certain race, color, reli-  
8 gion, sex, national origin, disability, or familial status
- 9 ■ Deny membership in or use of any real estate service, broker's organization, or  
10 multiple listing service
- 11 ■ Make false statements concerning the availability of housing for inspection, rent,  
12 or sale

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13 Visit the FHEO website for housing discrimination examples [https://www.hud.gov/  
14 program\\_offices/fair\\_housing\\_equal\\_opp/examples\\_housing\\_discrimination](https://www.hud.gov/program_offices/fair_housing_equal_opp/examples_housing_discrimination).

**15 Enforcement of the Fair Housing Act**

16 Federal fair housing laws are enforced by the Department of Housing and Urban  
17 Development (HUD) and the Department of Justice (DOJ). HUD's Office of Fair Housing  
18 and Equal Opportunity (FHEO) is charged with enforcing many laws, including the Fair  
19 Housing Act, the Civil Rights Act, and the Americans with Disabilities Act. The FHEO  
20 is charged with the following responsibilities:

- 21 ■ Investigate fair housing complaints.
- 22 ■ Assist individuals with obtaining agreements to resolve complaints.
- 23 ■ Enforce fair housing laws.

24 **Investigate Fair Housing Complaints.** Complaints must be filed within one year of the  
25 alleged discrimination. FHEO will either investigate the complaint or refer the com-  
26 plaint to another agency to investigate. As part of HUD's Fair Housing Assistance Pro-  
27 gram, FHEO may refer a fair housing complaint to a state or local government agency for  
28 investigation.

29 When an individual reports possible discrimination, the FHEO may interview the  
30 individual to obtain additional information. If a formal complaint can be filed under one  
31 of the laws the FHEO enforces, the FHEO will draft a formal complaint. The person mak-  
32 ing the complaint reviews and signs the complaint. The FHEO then notifies all affected  
33 parties that a complaint has been filed.

34 After a formal complaint is filed, the FHEO investigates the allegations. The party  
35 against whom the complaint has been filed is given an opportunity to respond to the alle-  
36 gations. The investigator may interview the parties and witnesses, obtain documents, and  
37 inspect property. When the investigation is completed, FHEO prepares a written report  
38 of its findings. HUD will issue a determination as to whether reasonable cause exists to  
39 believe that discrimination has occurred. In the event a charge of discrimination is issued,  
40 the parties have 20 days after receiving notice to decide whether a party wants to have the  
41 case tried in federal court. If no one makes such request during the 20-day election period,  
42 the case is heard by a HUD administrative law judge (ALJ).

1 **Agreements to Resolve Complaints.** The Fair Housing Act requires HUD to bring the  
2 parties together to attempt conciliation. Throughout the investigation, both before and  
3 after a formal complaint is filed, the FHEO will attempt to assist the parties to resolve  
4 the complaint. The choice to conciliate the complaint is voluntary on the part of both  
5 parties. If the parties agree, the FHEO will mediate the complaint and have the parties  
6 sign a conciliation agreement. After both parties sign the agreement, the investigation is  
7 closed and the FHEO monitors compliance with the agreement. If either party breaches  
8 the agreement, FHEO can recommend that the U.S. Department of Justice (DOJ) file suit  
9 to enforce it.

10 **Enforce Fair Housing Laws.** The government may bring a fair housing case or other civil  
11 rights case based on the findings of the investigation. Cases before HUD ALJs are handled  
12 by HUD's Office of General Counsel, and civil trial cases in the federal courts are handled  
13 by the DOJ. The DOJ may initiate a suit in federal court if there is a breach in the concili-  
14 ation agreement or there is a pattern of discrimination or if a number of persons have been  
15 injured. The Fair Housing Act allows for awards of compensatory (monetary) damages,  
16 equitable relief (such as requiring that housing be made available to the complainant),  
17 and punitive damages.

18 **EXAMPLE:** A charge of discrimination was issued by the county's Fair Hous-  
19 ing Council and filed with HUD, alleging that Mr. Parker (Respondent) made a dwelling  
20 unavailable, imposed different terms and conditions in the rental of a dwelling, and made  
21 a discriminatory statement, based on familial status. The Regional Director of the Office  
22 of Fair Housing and Equal Opportunity (FHEO) determined that reasonable cause existed to  
23 believe that a discriminatory housing practice had occurred.

24 The subject property was an 18-unit property consisting of eight two-bedroom  
25 units and ten three-bedroom units. Respondent owned and managed the rental of  
26 the subject property. According to the Planning and Zoning Department, there were  
27 no applicable ordinances limiting the number of family members who may occupy a  
28 bedroom in a dwelling. (Note: Local occupancy ordinances that specify the number  
29 of persons per bedroom are enforceable.) At the time of the alleged discrimination,  
30 the Complainant, Ms. Brown had two children who were ages 8 and 17. Complain-  
31 ant called the phone number on the for-rent sign and heard the following voicemail  
32 recording:

33 *Hi. This is Mike Parker of Parker Apartments in Richmond Hill. I have two- and three-*  
34 *bedroom units in the Richmond Height area. I require a 12-month lease and don't allow*  
35 *pets. No more than one child is allowed in a 2-bedroom or two children in a 3-bedroom.*  
36 *Non-smokers are preferred.*

37 The voicemail recording demonstrates three violations of the Fair Housing Act (Act).  
38 The Respondent:

- 39 ■ Made housing unavailable based on familial status.
- 40 ■ Imposed different terms and conditions in connection with the rental of a dwelling based  
41 on familial status.
- 42 ■ Made a statement that indicated a preference, limitation, or discrimination based on  
43 familial status or an intention to make such a preference, limitation, or discrimination  
44 with respect to the sale or rental of a dwelling.

45 The Secretary of HUD, through the Office of the General Counsel, charged Respon-  
46 dents with discriminatory housing practices in violation of the Act and the following  
47 recommended order was issued:

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- 1 ■ Award damages to fully compensate Complainant for the actual damages.
- 2 ■ Award a civil penalty against Respondent for each violation of the Act.
- 3 ■ Award additional relief as may be appropriate.
- 4 ■ Mandate Respondent, agents, and employees of the Respondent attend training that
- 5 addresses the Act's prohibitions against familial status discrimination.
- 6 Reference: *Brown v. Parker*; FHEO nos. 04-15-0533-8 and 04-15-0938-8.

7 For additional information regarding the complaint process, visit [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/complaint-process](https://www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process).

### 9 Florida Fair Housing Act

10 Florida Statute 760 contains the Florida Civil Rights Act and the Fair Housing Act.  
 11 These state laws are similar in scope to the federal Civil Rights Act and the federal Fair  
 12 Housing Act. Florida's Fair Housing Act prohibits discrimination in the following:

- 13 ■ Sale or rental of housing
- 14 ■ Brokerage services
- 15 ■ Financing of housing or in residential real estate transactions
- 16 ■ Land use decisions and in permitting of development

17 The Florida Commission on Human Relations enforces the Florida Fair Housing Act.  
 18 The Commission on Human Relations works cooperatively with its federal counterpart  
 19 (HUD). When a case of discrimination is filed with the Commission on Human Relations,  
 20 it is usually also filed with HUD. As with federal complaints, complaints of housing  
 21 discrimination submitted to the Commission on Human Relations must be filed in writing  
 22 within one year of the alleged discrimination. If the Commission is unable to obtain vol-  
 23 untary compliance or it has reasonable cause to believe that a discriminatory practice has  
 24 occurred, the Commission may institute an administrative proceeding under Chapter 120,  
 25 F.S. The Commission on Human Relations may issue quantifiable damages and reasonable  
 26 attorney's fees and costs to the aggrieved party. The parties also have the right to institute  
 27 a civil action in state court.

### 28 Responsibility and Liability of Real Estate Licensees

29 Real estate licensees have a legal and ethical responsibility to ensure all customers have equal  
 30 access to housing. Licensees should know the federal, state, and local governments' protected  
 31 classes and who is not protected, such as smokers and illegal drug users. A real estate licensee  
 32 should follow the fair housing laws in every aspect of their business, including advertising, writ-  
 33 ten and verbal conversations, and social media. When discovered, licensees should report fair  
 34 housing violations. The liability of violating such laws is significant. A fair housing violation  
 35 could lead to HUD-imposed fines, restitution to the victims, FREC-imposed administrative  
 36 fines, and even the revocation of one's real estate license. Remember, when advertising, always  
 37 describe the property and *not* the potential buyer. It is acceptable to advertise that the licensee  
 38 has a knowledge of languages other than English. When recently licensed sales associates are  
 39 choosing a broker, sales associates should inquire of the real estate broker's fair housing policy and  
 40 education program for associates and staff members to ensure the entire workforce understands  
 41 what is expected of them when working with clients, future customers, and the public in general.





## KEY POINTS OF CIVIL RIGHTS ACT OF 1866 AND FAIR HOUSING ACT, AS AMENDED

- *Jones v. Mayer* U.S. Supreme Court case upholds Civil Rights Act of 1866.
- Discrimination based on race is prohibited in ALL real estate transactions.
- Seven protected classes under Fair Housing Act, as amended.
- The Fair Housing poster must be displayed at real estate offices and businesses involved in the housing industry.
- Fair Housing Act applies to ONLY residential property (commercial property is not covered by the Act).
- Some real estate transactions are exempted under Fair Housing Act provided a real estate brokerage was not involved in the transaction; and no discriminatory advertising was used to market the property:
  - The sale or rental of a single-family residential property, provided the seller does not own more than three dwellings, and no more than one house is sold during a two-year period in which the owner was not the most recent resident.
  - Rental of multifamily residential property of four or fewer units and the owner resides in one of the units.
- Certain housing for older persons is exempt from the familial status protection.
- Religious organizations may restrict dwelling units they own or operate to members of their religion, provided the organization does not discriminate in accepting its membership.
- Private clubs may restrict rental units to its members.
- The Fair Housing Act prohibits certain activities including, steering, blockbusting, and redlining.

## CASE STUDY

### FAIR HOUSING CASE

*U.S. Department of HUD, on behalf of Steve Times and Betty Brinson, Complainant v. Annette Banai, Janos Banai, Sylvia Arias, and Manhattan Group Real Estate, Inc., Respondents*

What follows is information concerning federal case (HUDALJ 04-93-2060-8). The information has been summarized for education purposes.

In the aftermath of Hurricane Andrew, Steve Times and Betty Brinson (Complainants) sought to rent a place to live until repairs could be made to their home.

Janos and Annette Banai (Respondents) resided in New York. They owned a home in Hollywood, Florida, that they rented out on previous occasions using the services of a rental agent. Sylvia Arias was a licensed sales associate for Manhattan Group Real Estate, Inc. The Respondents listed their residence with the brokerage. The Respondents indicated that they wanted to rent the residence to hurricane disaster victims.

The Complainants responded to a newspaper advertisement placed by Arias and her brokerage firm on behalf of the owners. Arias showed the Complainants the house, and the Complainants indicated they wanted to rent the home. Before finalizing the rental, Arias called the Respondent to discuss the agreement. Arias told the Respondents that

she had found “a very nice couple to rent the house.” Ms. Banai (the Respondent) asked “what kind of people” they were. The conversation included, in part:

Respondent: “Are they Hispanic?”

Arias: “No.”

Respondent: “Are they black?”

Arias: “Yes.”

Respondent: “No, I cannot rent the house to black people because I live in part of the house and because of what the neighbors will say about something like that.”

Arias: “We are not supposed to discriminate in that way.”

Respondent: “Look for someone else.”

Arias contacted the Complainants and told them, in part:

Arias: “I am very, very sorry to tell you that you are not going to be able to rent the house. I contacted the owners, and the owners said they did not want persons of color in their house.”

Complainants: “What does that mean, because we’re black?”

Arias: “Yes.”

Arias showed the Complainants other rentals. Arias also reported the incident to her broker. The broker asked why Arias had identified the couple’s race to the owners. Arias answered that the Respondents had asked her. The broker told Arias that she should have refused to respond to the question and that she should have stated that the race of the applicants is irrelevant to the transaction.

The broker sent a letter to the Respondents indicating that Manhattan Group could not be a party to any type of discriminatory practices and that the owners should rent to the couple. Further, if the owners refused to rent to the couple, Manhattan Group was withdrawing from the listing agreement with the owners.

*Findings:*

- A preponderance of evidence directly and unambiguously establishes that Banai refused to rent to Complainants solely because they were black.
- By answering the owner’s inquiry concerning race, the sales associate violated fair housing law. Arias “facilitated and participated in Ms. Banai’s refusal to rent to Complainants and thereby made a dwelling unavailable because of race [and] color.”
- Because Arias was a sales associate for Manhattan Group Real Estate, Inc., at the time Arias violated the act, the brokerage is vicariously liable for Arias’s actions.

*Order:*

- Respondents Annette and Janos Banai, Sylvia Arias, and Manhattan Group Real Estate, Inc., are permanently enjoined from discriminating with respect to housing because of race or color.
- The Banais were found guilty of discrimination and ordered to pay a \$10,000 civil penalty to the secretary of HUD and compensatory damages of \$35,000 each to Times and Brinson for emotional distress, inconvenience, and lost housing opportunity.
- Arias was fined \$100 and required to attend fair housing training.

*Appeal:*

- Annette and Janos Banai appealed to the United States Court of Appeals, Eleventh Circuit (NO. 95-4377). The appeals court affirmed the \$70,000 in compensatory damages to Steve Times and Betty Brinson.



1 To learn more about the Fair Housing Act, download the booklet *Equal Opportunity for*  
 2 *All* at [https://www.hud.gov/sites/documents/FHEO\\_BOOKLET\\_ENG.PDF](https://www.hud.gov/sites/documents/FHEO_BOOKLET_ENG.PDF) (scan QR code).

**Practice Questions**

6. List the two categories of residential housing covered by the 1968 Fair Housing Act.
  1. \_\_\_\_\_
  2. \_\_\_\_\_
7. Lenders who deny loan applications in certain neighborhoods based on social or economic considerations of the geographic area are practicing \_\_\_\_\_.
8. \_\_\_\_\_ is the practice of channeling potential buyers to or away from a particular neighborhood because of their race, national origin, or other protected class.
9. Religious organizations may restrict dwelling units they own or operate to \_\_\_\_\_ of their religion.

**7.3 AMERICANS WITH DISABILITIES ACT OF 1990**

4 The Americans with Disabilities Act (ADA) is a federal statute that protects employ-  
 5 ment and accessibility rights of individuals with mental and physical disabilities.

6 **Access to Public Transportation, Public Accommodations, and Commercial Facili-**  
 7 **ties.** The act prohibits discrimination in places of public accommodations and in com-  
 8 mercial facilities. **Public accommodations** are facilities open to the public, including sales  
 9 and rental establishments, hotels, restaurants, and shopping centers. Individuals with dis-  
 10 abilities may not be denied access to public transportation, public accommodations, and  
 11 commercial facilities.

12 **New Construction and Renovation.** Public accommodations and commercial facilities  
 13 must be newly constructed or renovated, if readily achievable, to meet accessibility stan-  
 14 dards. Criteria for determining whether a public accommodation or a commercial facility  
 15 can be made accessible is set forth in the act. If readily achievable, structural, architec-  
 16 tural, and communication barriers must be removed. Examples of alterations include wid-  
 17 ening doorways, making cuts in street curbs, lowering telephones, installing ramps, and  
 18 providing ADA-compliant toilets and grab bars in restrooms.

19 ADA requirements also apply to private entities that own, lease, or operate commer-  
 20 cial facilities, including real estate brokerage offices, even if the broker's office is located  
 21 in a private residence. Buyers who purchase older homes with plans to turn the structures  
 22 into offices may face costly unanticipated expenses to modify or upgrade the facility to  
 23 ADA standards. If the broker's office is in a private residence, the accessibility standards  
 24 apply to that portion of the home used exclusively as an office and to those portions of  
 25 the house available to customers, including bathrooms. The accessibility standards do not  
 26 apply to any portion of the home used exclusively as a personal residence.

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**Florida Americans With Disabilities Accessibility Implementation Act.** This Florida statute adopts the federal standards for accessibility for disabled persons. The intent of the Florida law is to incorporate into state law the accessibility requirements of the Americans with Disabilities Act of 1990, as amended, and to obtain and maintain U.S. Department of Justice (DOJ) certification of the Florida Accessibility Code for Building Construction as equivalent to federal standards for accessibility of buildings, structures, and facilities to ensure certification of the state's construction standards and codes. Accessibility guidelines and specifications are available from local building inspectors and the DOJ. Local municipal or county governments are responsible for enforcing compliance with the codes.

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To learn about the ADA, visit <https://www.ada.gov/#mainContent>.

**Practice Questions**

10. \_\_\_\_\_ are facilities open to the public including sales and rental establishments, hotels, restaurants, and shopping centers.
11. Individuals with disabilities may not be denied \_\_\_\_\_ to public \_\_\_\_\_, public \_\_\_\_\_, and \_\_\_\_\_ facilities.

**7.4 INTERSTATE LAND SALES FULL DISCLOSURE ACT (ILSA)**Title 15,  
Ch. 42, Sec.  
1701-1720,  
USC

7

The advertising and sale or lease of real estate in one state to buyers in another state is subject to federal regulations. The Interstate Land Sales Full Disclosure Act (ILSA) is intended to prevent fraudulent marketing schemes when land is sold without being seen by purchasers. ILSA requires disclosure of full and accurate information regarding the property to prospective buyers before they decide to buy. ILSA is administered by the Consumer Financial Protection Bureau. Developers must register subdivisions of 100 or more lots with the bureau before they can offer unimproved lots in interstate commerce by telephone or through the mail.

**Property Report.** Developers of 25 or more lots must provide buyers with a **property report** prior to signing the sale contract. The property report contains important information about the property. Purchasers who timely receive the property report may cancel the contract up until midnight of the seventh day following signing the contract. Purchasers who were not given the property report before signing the contract may bring action to revoke the contract anytime within two years from the date of signing. The sale and purchase contract must clearly state the purchaser's right(s) to cancel. Developers who market subdivisions of fewer than 25 lots are exempt from registering under ILSA.

**Practice Questions**

12. Developers of 25 or more lots must provide buyers with a \_\_\_\_\_.
13. Prospective buyers who have received the property report before signing the sale contract may cancel the contract up until midnight of the \_\_\_\_\_ day after signing the contract.
14. Subdivisions of no more than 24 lots are \_\_\_\_\_ from registering under ILSA.

## 7.5 FLORIDA RESIDENTIAL LANDLORD AND TENANT ACT

The Landlord and Tenant Act applies to the rental of dwelling units (residential tenancies). Under Florida law, a person must be at least 18 years old to enter into a rental agreement.

83.49, F.S.

**Deposits and Advance Rents.** A security deposit is typically paid to guarantee that the property will be left in good condition. Rent in advance is also often paid (typically the last month's rent). The Landlord and Tenant Act mandates how landlords (not real estate brokers) must account for and handle tenants' deposits and advance rents. The landlord is typically the owner of a dwelling unit. When money is given to a landlord as a security deposit or advance rent, the landlord is obligated to account for such deposits in one of three ways:

1. Hold the money in a separate non-interest-bearing Florida bank account for the benefit of the tenant. The landlord may not commingle, hypothecate—that is, pledge as security for a debt—or use any such funds until the funds are due the landlord.
2. Hold the money in a separate interest-bearing Florida bank account for the benefit of the tenant. In this case, the landlord must pay the tenant at least 75% of the annualized average interest rate payable on the account or 5% per year, simple interest, whichever the landlord elects. The landlord must not commingle, hypothecate, or use any such funds until actually due the landlord.
3. Post a surety bond with the clerk of the circuit court in the county in which the rental property is located in the total amount of the security deposits and advance rents or \$50,000, whichever is less. The landlord must pay the tenant interest on the security deposit or advance rent held on behalf of the tenant at the rate of 5% per year simple interest. Landlords who choose this method are not obligated to place the funds (deposits) into a separate account.

Landlords of five or more units must give tenants written notice of the advance rent or security deposit either in the lease agreement or within 30 days after receipt of advance rent or security deposit. The notice must be given in person or by mail to the tenant. The notice must indicate the name and address of the depository where the advance rent or security deposit is being held, or it must state that the landlord has posted a surety bond as provided by law. The notice must also indicate whether the tenant is entitled to interest on the deposit. The Act also requires that the notice include the following disclosure (see Figure 7.3).

**FIGURE 7.3 ■ Residential Landlord and Tenant Act Disclosure**

Your lease requires payment of certain deposits. The landlord may transfer advance rents to the landlord's account as they are due and without notice. When you move out, you must give the landlord your new address so that the landlord can send you notices regarding your deposit. The landlord must mail you notice, within 30 days after you move out, of the landlord's intent to impose a claim against the deposit. If you do not reply to the landlord stating your objection to the claim within 15 days after receipt of the landlord's notice, the landlord will collect the claim and must mail you the remaining deposit, if any.

If the landlord fails to timely mail you notice, the landlord must return the deposit but may later file a lawsuit against you for damages. If you fail to timely object to a claim, the landlord may collect from the deposit, but you may later file a lawsuit claiming a refund.

You should attempt to informally resolve any dispute before filing a lawsuit. Generally, the party in whose favor a judgment is rendered will be awarded costs and attorney fees payable by the losing party.

This disclosure is basic. Please refer to Part II of Chapter 83, Florida Statutes, to determine your legal rights and obligations.

475.25(1)  
(k), F.S.

46

1 **Broker Property Management.** Rental property is typically owned by absentee owners.  
2 Oftentimes, a real estate brokerage will contract to provide property management services  
3 on behalf of an offsite property owner. In such situations, the brokerage acts as an agent  
4 on behalf of the owner. Real estate brokers must abide by Chapter 475 with regard to  
5 handling deposits and advance rent. The deposits and advance rents are trust funds and,  
6 as such, must be deposited into the broker's escrow account by the end of the third busi-  
7 ness day after receipt of the trust funds. Brokers typically open a separate escrow account  
8 to handle rental property management; however, there is no requirement to keep the  
9 property management trust funds separate from sales trust funds. Brokers may keep up to  
10 \$5,000 of the broker's personal funds or business funds in a property management escrow  
11 account for the purpose of maintaining the escrow account. Sales associates who collect  
12 rent from tenants do so for their employing broker. Sales associates who collect rent or  
13 deposits from a tenant must deliver the funds to their broker-employer no later than the  
14 end of the next business day. It is illegal for a sales associate or a broker associate to inde-  
15 pendently perform property management services for a property owner.

83.683, F.S.

16 **Renting to Active Military Service Members.** The Florida Residential Landlord and Ten-  
17 ant Act requires landlords to approve or deny the rental application of an active service  
18 member within seven days. The service member must be notified in writing whether the  
19 rental application has been approved. If the application is denied, the denial letter must  
20 include the reason for denial. If the application is not processed within seven days, the  
21 landlord must lease the rental unit to the service member, provided the member complied  
22 with all other terms of the application and lease. The timeframe to process an active ser-  
23 vice member's rental application also applies to condominium associations, cooperative  
24 associations, and homeowners' associations when the association requires prospective ten-  
25 ants to complete a rental application before residing in a rental unit.

83.49(7),  
F.S.

26 **Selling Tenant-Occupied Homes.** The sale of a property does not terminate a lease unless  
27 the lease specifically provides for its termination when title is transferred to a new owner.  
28 When a broker lists a rented property, it is important to determine whether the owner is  
29 selling the property subject to the lease. Typically, if the property is subject to an exist-  
30 ing lease, the buyer would become the new landlord at title transfer. The lease should  
31 be reviewed to determine whether it includes a provision for the right to terminate the

1 lease upon sale of the property. If the lease does provide for termination upon sale of the  
2 property, the buyer should decide whether the lease should be terminated. If the lease is  
3 to continue after the sale, arrangements need to be made regarding an assignment of the  
4 lease, transfer of the security deposits and advance rent, and an accounting of the tenant's  
5 funds. At closing, the Closing Disclosure should reflect the transfer of the security deposit  
6 and the advance rents to the buyer, and the prorated rent for the month of closing. The  
7 Florida Residential Landlord and Tenant Act requires that when a rental property is sold  
8 or in the event of a change in the designated rental agent who is holding deposits and  
9 advance rent, the tenants' funds must be transferred to the new owner or rental agent,  
10 together with any earned interest and a final accounting showing the amounts to be cred-  
11 ited to each tenant's account.

## C A S E S T U D Y

### ***FURLONG v. WINTER***

What follows is information concerning an informal hearing (Case Number 2013-032956). The information has been summarized for educational purposes. Winter was licensed as a sales associate for approximately four months when the following events occurred.

#### *Synopsis:*

Winter (Respondent) was employed by a licensed real estate corporation (Broker).

Respondent intended to manage properties on behalf of a friend/investor (referenced as landlord in a lease entered as exhibit) in the case.

Respondent prepared a lease for the rental of the subject property. Respondent's employer (Broker) did not authorize Respondent to manage the subject property or prepare the lease for the subject property.

Respondent created a limited liability company (LLC). Respondent was the manager and registered agent for the LLC.

Respondent collected from the tenants a security deposit and pet deposit. The deposits were not collected in the name of the Respondent's employer (Broker) or with the consent of the Respondent's broker. Respondent deposited and held the security and pet deposits in a business account.

#### *Relevant License Law:*

Section 475.42(1)(b), F.S.: A person licensed as a sales associate may not operate as a broker or operate as a sales associate for any person not registered as her or his employer.

Section 475.42 (1)(d), F.S.: A sales associate may not collect any money in connection with any real estate brokerage transaction, whether as a commission, deposit, payment, rental, or otherwise, except in the name of the employer and with the express consent of the employer.

Rule 61J2-14.009, F.A.C.: Every sales associate who receives any deposit shall deliver the same to the associate's broker/employer no later than the end of the next business day following receipt of the item.

*Conclusion:*

An informal hearing was held before the Commission. The Respondent was found guilty and fined \$1,000 plus costs of the investigation. The sales associate was further ordered to take 30 hours of education.

83.51, F.S.

**Landlord's Obligation to Maintain Premises.** A landlord's obligations to tenants include the following:

- Maintain the rented dwelling unit in a condition that meets all building, housing, and health codes in the community. If no codes have been established for the area, the law requires that the premises (rental unit) be maintained in "good repair and capable of resisting normal forces and loads."
- Provide extermination of rats, mice, roaches, ants, wood-destroying organisms, and bedbugs.
- Provide garbage receptacles and pickup.
- Provide working equipment for heat plus running hot water.

The landlord is allowed to charge tenants for services, provided the charges are included in the rental agreement. If the dwelling unit is a single-family home or a duplex, the landlord is required to install working smoke detectors before the beginning of the lease period, unless agreed to otherwise in writing.

Landlords may not be held responsible for conditions caused or created by negligent or wrongful acts of tenants or their guests. A landlord is not required to maintain a mobile home when a tenant is renting the landlord's lot.

83.52, F.S.

**Tenant's Obligations.** A tenant's obligations include the following:

- Comply with applicable building, housing, and health codes.
- Keep occupied premises, including the dwelling's plumbing fixtures, clean and sanitary.
- Use reasonable care in the operation of all plumbing, electrical, heating, and air-conditioning equipment.
- Behave, and make sure guests behave, so as not to disturb the peace of other tenants.

83.53, F.S.

**Landlord's Access to Premises.** A tenant may not unreasonably withhold consent for a landlord to enter rented premises from time to time to:

- inspect the premises;
- make necessary or agreed-on repairs, decorations, alterations, or improvements;
- supply agreed-on services; and
- exhibit or show the premises.

In case of emergency or when necessary to protect or preserve the premises, a landlord is entitled to enter a dwelling unit at any time. However, the law prohibits a landlord from abusing this right of access to harass a tenant. If the rent is current and the tenant notifies the landlord of an intended absence, the landlord may not enter the premises during the period of absence, except with the tenant's consent or in an emergency. Except in emergencies, landlords are obligated to enter rented premises at times reasonable and convenient for the tenant. The statute mandates that at least 24 hours is reasonable notice.



83.49(3),  
F.S.

83.491(2),  
F.S.

**Vacating Premises.** When a tenant vacates a rental unit at the end of a lease agreement, the landlord must abide by certain time restrictions as follows:

- The landlord has 15 days to return the security deposit and any accrued interest, if applicable, provided the landlord does not intend to make a claim on the security deposit.
- The landlord has 30 days to notify the tenant of intentions to impose a claim on the deposit.

The notification must be in writing and be sent by certified mail to the tenant's last-known mailing address. The notice must include the reason for the claim. Failure to give the required notice to the tenant within the 30-day period forfeits the right to claim part of the deposit. The landlord may not seek a setoff against the deposit. The landlord may file a separate court action for damages after return of the deposit (with any accrued interest, if applicable).

A tenant who is properly notified of the landlord's claim on the security deposit is allowed 15 days after receipt of the landlord's notice to file an objection. A tenant who fails to make a timely written objection does not waive the right of the tenant to seek damages in a separate court action.

The Florida Landlord and Tenant Act relieves brokers of the duty to notify the FREC of disputes regarding security deposits and advance rent. Section 83.49, F.S., provides that brokers holding security deposits and advance rent may disburse the funds from the rental escrow account without complying with the Commission's escrow dispute and notification procedures, provided the broker has fully complied with the Florida Landlord and Tenant Act.



### TIME PERIODS REGARDING TENANT DEPOSITS

- |         |   |
|---------|---|
| 30 days | Landlords of five or more units must notify the tenant in writing of which method is used to hold the tenant's deposit: (1) non-interest-bearing Florida bank, (2) interest-bearing Florida bank, or (3) posted bond. |
| 15 days | A landlord who does not intend to make a claim on the security deposit has 15 days to return the security deposit.  |
| 30 days | A landlord who is making a claim on the deposit has 30 days to notify the tenant of the claim.  |
| 15 days | After receiving written notification of landlord's claim on deposit, the tenant has 15 days to object in writing to the claim.  |

83.56 (1),  
F.S.

**Termination of Rental Agreements by the Tenant.** If a landlord fails to maintain rented premises or fails to comply with the terms and conditions of the rental agreement, a tenant may terminate the agreement by following this procedure:

1. The tenant first must give written notice to the landlord citing the noncompliance and stating the intent to cancel the agreement if the noncompliance is not corrected.
2. Thereafter, the landlord has seven days to correct the noncompliance and resolve the problem.
3. If the noncompliance is not corrected within seven days after delivery of the tenant's complaint to the landlord, the tenant is entitled to terminate the agreement.

1 In those cases in which a tenant does not desire to terminate the rental agreement but  
2 does want to correct a landlord's noncompliance, the law provides alternative courses of  
3 procedure:

- 4 ■ If the dwelling unit is habitable despite the landlord's failure to comply, the ten-  
5 ant may remain in occupancy of the premises, and the law states that the rent  
6 may be reduced by a court in proportion to the loss in rental value caused by the  
7 failure to comply.
- 8 ■ If the dwelling unit is rendered untenable (uninhabitable) owing to the land-  
9 lord's failure, the tenant may not be liable for the rent during the period the  
10 premises remain untenable, if the court agrees with the tenant's assertions. This  
11 is a departure from the requirements of a nonresidential lease under which the  
12 landlord has no obligation to repair damaged premises unless the obligation is  
13 specifically contained in the lease agreement.

83.56 (2),  
F.S.

83.56(3),  
F.S.

14 **Termination of Rental Agreements by the Landlord.** If a tenant fails to comply with a  
15 lease or rental agreement, the landlord may terminate the agreement by following the  
16 three-step procedure previously mentioned. The same period of seven days is allowed for  
17 compliance by the tenant. However, if the tenant's noncompliance is failure to pay rent  
18 when due, the following procedure is required for a landlord to terminate the agreement:

- 19 1. The landlord must give the tenant written notice demanding either payment of  
20 rent within three business days or possession of the premises. The written notice  
21 can be mailed, personally delivered, or if the tenant is absent from the place  
22 of residence, attached to the door of the dwelling. It is always advisable to be  
23 accompanied by another person to witness delivery of the notice. The three-day  
24 time limit begins from the time the notice is posted by mail or delivered at the  
25 residence, not including weekends or holidays.
- 26 2. The tenant has three business days to either pay the rent or surrender the prem-  
27 ises. If the tenant continues the default in payment of rent after the allotted  
28 days have lapsed, the landlord must resort to formal eviction to have the tenant  
29 removed.
- 30 3. If the tenant vacates the rented premises, the landlord then is required to give  
31 the tenant written notice by certified mail of any claim on the tenant's security  
32 deposit or advance rent held by the landlord, as described previously.



## SUMMARY OF THE EVICTION PROCESS

The landlord serves the tenant a written notice allowing three business days (excluding weekends and legal holidays) for the tenant to pay the rent or to vacate the premises.

If the tenant does not pay the rent or moves, the landlord may begin legal action to evict by filing a *complaint for eviction* in county court.

If the court agrees with the landlord, the tenant is notified in writing. The tenant has five business days (excluding weekends and legal holidays) to respond in writing to the court.

If the tenant does not respond or if a judgment is entered against the tenant, the clerk of the county court issues a *writ of possession* to the sheriff.

The sheriff notifies the tenant that eviction will take place after a 24-hour notice has been posted.

1 **Eviction Requirements.** From time to time, a landlord has to evict tenants from rented  
2 dwelling units. In any eviction process, the landlord must adhere to the following  
3 procedure:

83.59, F.S.

- 4 1. The tenant must be notified in writing that the landlord is demanding possession  
5 of the premises. The notice may be mailed to or served on the tenant or posted  
6 on the door of the tenant's residence. The landlord keeps a copy of the notice  
7 and notes the date mailed or delivered.
- 8 2. If the tenant does not surrender the premises to the landlord within three busi-  
9 ness days after notification for nonpayment of rent (seven days for all other  
10 breaches of the rental agreement), the landlord must file a complaint for eviction  
11 in the court of the county where the dwelling is located. This complaint identi-  
12 fies the premises and cites the reasons that justify recovery of the property. The  
13 sheriff's department usually delivers the complaint to the tenant.

83.60, F.S.

- 14 3. The tenant is allowed five business days to file a reply in defense against the  
15 complaint. If the tenant decides to defend continued possession, the courts must  
16 decide the case.
- 17 4. If the tenant merely continues to occupy the premises without answering the  
18 complaint, the landlord must obtain a final judgment from the court. A landlord  
19 is entitled to have the motion for final judgment advanced on the court's calen-  
20 dar if the court approves the request.

83.62, F.S.

- 21 5. After entry of judgment in favor of the landlord, the clerk of the court issues a  
22 writ to the sheriff to put the landlord in possession after a 24-hour notice has  
23 been posted on the premises.
- 24 6. At the time the sheriff executes (signs) the writ of possession or anytime thereaf-  
25 ter, the landlord or the landlord's agent may remove any personal property found  
26 on the premises. Subsequent to executing the writ of possession, the landlord  
27 may request that the sheriff stand by to keep the peace while the landlord  
28 changes the locks and removes the personal property from the premises.

29 When a tenant refuses to vacate and defends for continued possession, it sometimes  
30 takes one to two months to complete the entire eviction procedure. In the meantime,  
31 any unpaid rent creates a lien in favor of the landlord. That lien applies to all property  
32 of the tenant except beds, bedclothes, and wearing apparel, either on or off the rented  
33 premises. This general lien dates from the date a judgment is issued by a court in favor of  
34 the landlord. Any right or duty stated in Florida's Landlord Tenant Law is enforceable by  
35 civil action. This means that all legal remedies sought by either tenant or landlord under  
36 this statute are pursued through the civil courts.

**WEBLINK**



37 You can learn more about Florida's Residential Landlord and Tenant Act. Visit [https://](https://www.fdacs.gov/Consumer-Resources/Landlord-Tenant-Law-in-Florida#)  
38 [www.fdacs.gov/Consumer-Resources/Landlord-Tenant-Law-in-Florida#](https://www.fdacs.gov/Consumer-Resources/Landlord-Tenant-Law-in-Florida#), a Florida Department  
39 of Agriculture and Consumer Services site.

### Practice Questions

15. A landlord who intends to make a damage claim against a security deposit must give the tenant written notice of the intent to make the claim within \_\_\_\_\_ days.

16. If a landlord holds security deposits and advance rent in an interest-bearing rental account, the tenant is entitled to at least \_\_\_\_\_ of the annualized average interest rate payable on the account or \_\_\_\_\_ simple interest, with disbursements at least once each year, whichever the landlord elects.
17. If a real estate brokerage provides property management services, the broker must place rental deposits and advance rent in an \_\_\_\_\_ account.
18. Brokers may keep up to \_\_\_\_\_ of personal funds or business funds in a property management escrow account.

## 7.6 SUMMARY OF IMPORTANT POINTS

- The Civil Rights Act of 1866 prohibits racial discrimination in all real estate transactions without exception.
- The *Jones v. Mayer* case upheld the Civil Rights Act of 1866.
- The Civil Rights Act of 1968 (called the Fair Housing Act) and amendments, protects people from discrimination because of their race, color, religion, sex, disability, familial status, or national origin in the sale or rental of housing or residential lots. The Fair Housing Act does not protect individuals based on age, occupation, marital status, or sexual orientation.
- Several exemptions from the Fair Housing Act apply to individuals selling or renting their own property. However, if racial discrimination occurs, the individual is in violation of the Civil Rights Act of 1866. If a real estate licensee is involved in the transaction, the Fair Housing Act applies.
- Prohibited activities under the Fair Housing Act include refusing to rent to, sell to, negotiate with, or deal with a member of a protected class; quoting different terms or conditions for buying or renting; advertising that housing is available only to people of a certain race, color, religion, sex, national origin, disability, or familial status; denying membership in or use of any real estate brokerage services, brokers' organization, or MLS; and making false statements concerning the availability of housing for inspection, rent, or sale.
- The Fair Housing Act also prohibits blockbusting (inducing homeowners to sell their property by making misrepresentations regarding the entry of minority persons in order to cause a turnover of properties in the neighborhood); steering (channeling homeseekers to or away from particular neighborhoods because they are members of a protected class); and redlining (denying loans or insurance coverage or offering loans or insurance coverage with different terms or conditions for homes in certain neighborhoods).
- The Americans with Disabilities Act (ADA) prohibits discrimination in places of public accommodation and commercial facilities such as hotels and real estate offices.
- The Interstate Land Sales Full Disclosure Act allows a purchaser who received the required property report before signing the contract to cancel the contract within seven days. Developers must register subdivisions of 100 or more lots with the Consumer Financial Protection Bureau.
- The Florida Residential Landlord and Tenant Act requires landlords to (1) maintain security deposits and advance rent in a separate non-interest-bearing escrow account, (2) maintain security deposits and advance rent in a separate interest-bearing

1 account and pay the tenant at least 75% of the annualized average interest rate  
2 payable on the account, or 5% per year, simple interest, or (3) post a surety bond  
3 for the lesser of the amount of the funds or \$50,000 and pay the tenant 5% interest.  
4 If a real estate broker holds the funds on behalf of the landlord, the broker must  
5 abide by real estate license law concerning escrow funds.

# UNIT 7 EXAM

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1. The federal statute that prohibits a private homeowner from discriminating strictly on the basis of race if selling, renting, or leasing is the
  - a. 1968 Fair Housing Act.
  - b. 1866 Civil Rights Act.
  - c. 1934 National Housing Act.
  - d. 1968 Interstate Land Sales Full Disclosure Act.
2. The law requiring developers with subdivisions of 100 or more lots to register with the Consumer Financial Protection Bureau is the
  - a. Civil Rights Act of 1964.
  - b. Federal Housing Act (FHA).
  - c. Florida Deceptive and Unfair Trade Practices Act ("Little FTC Act").
  - d. Interstate Land Sales Full Disclosure Act (ILSA).
3. The federal 1968 Fair Housing Act as amended prohibits discrimination based on
  - a. race, color, religion, sex, national origin, familial status, or disability.
  - b. race or age.
  - c. religion, age, race, familial status, or disability.
  - d. race, color, religion, age, or national origin.
4. A sales associate collects the rent for an absentee owner of a multifamily building. The sales associate must
  - a. deposit the rent in the sales associate's escrow account.
  - b. deliver the rent to the sales associate's broker no later than the end of the next business day after receipt.
  - c. deposit the rent into the broker's business account.
  - d. deliver the rent to the sales associate's broker no later than the third business day after receipt.
5. When security deposits or advance rents are required by a landlord in Florida, such funds
  - a. must always be kept in a separate account.
  - b. may be deposited in the landlord's account if a sufficient surety bond has been posted.
  - c. must always be placed in an interest-bearing account.
  - d. must bear interest at the rate of 7%.
6. Adam, an Asian man, meets with a sales associate to explain his housing needs and describe the desired area he is considering. The sales associate tells Adam they have a listing in an area that Adam will probably like better because there are "people like him there." Adam noticed when viewing the listing that the neighborhood looked primarily Asian. This is an example of
  - a. steering.
  - b. subordination.
  - c. alienation.
  - d. blockbusting.
7. A landlord who rents a duplex to two tenants is obligated to provide
  - a. working equipment for air-conditioning.
  - b. an operable washer and dryer.
  - c. a designated parking space.
  - d. working smoke detectors.
8. Which disclosure must be given to tenants in multifamily buildings of five or more units?
  - a. No brokerage relationship notice
  - b. Notice of where deposit is held within 30 days
  - c. 15-day cancellation privilege
  - d. Transaction broker notice

9. If a tenant vacates rented premises promptly when a lease or tenancy expires, the landlord must
  - a. inform the tenant within 45 days if the landlord claims part of the security deposit.
  - b. return the tenant's security deposit within 30 days or explain any exception.
  - c. inform the tenant within 25 days if part of the tenant's deposit will be claimed.
  - d. inform the tenant within 30 days if part of the tenant's deposit will be claimed.
10. The Fair Housing Act does NOT apply to which category?
  - a. A property owner of a single-family home who owns two residential properties and is selling the single-family property as a for sale by owner
  - b. Residential property owned by the county government
  - c. Single-family home listed by a real estate sales associate
  - d. 20-unit multifamily apartment building
11. If a tenant's rent is current and the tenant notifies the landlord of an intended absence, the landlord may
  - a. not enter the tenant's rented premises without the tenant's consent, except in an emergency.
  - b. enter only if accompanied by a second party.
  - c. enter without any restriction.
  - d. not enter the tenant's rented premises without first obtaining a sheriff's affidavit.
12. How long does a landlord have to correct a non-compliance after receiving written notice from a tenant?
  - a. 7 days
  - b. 10 days
  - c. 2 weeks
  - d. 30 days
13. An owner of a rental property decides to hire a different property management company. What are the requirements concerning the tenants' security deposits and advance rent if the current management company is holding the funds in its trust account?
  - a. Reimburse the tenants within 30 days with a final accounting.
  - b. Send a letter to the tenants requesting instructions to either refund the money to the tenant or to credit the funds on the tenant's behalf to the new property management company.
  - c. Transfer the funds to the new property management company with a final accounting showing the amounts to be credited to each tenant's account.
  - d. Transfer the funds directly to the owner of the property who must deposit the funds and then issue a check payable to the new property management company.
14. Which law prohibits hotels from discriminating against customers because of the customer's national origin?
  - a. Civil Rights Act of 1866
  - b. Civil Rights Act of 1964
  - c. Fair Housing Act of 1964
  - d. Americans with Disabilities Act
15. Which phrase may legally be included in an advertisement to sell real estate?
  - a. "Cute cottage home, perfect for first-time buyer"
  - b. "Beautiful neighborhood rich in ethnic heritage"
  - c. "Spanish-speaking community"
  - d. "Quiet neighborhood, no young children please"