



## **HOUSING DISCRIMINATION BASED ON SOURCE OF INCOME**

### **What are fair housing laws?**

In 1968, the federal government passed a law called the Fair Housing Act which prohibits landlords, real estate agents, home sellers, and banks from discriminating against people based on certain characteristics.

California has a very similar law, the Fair Employment and Housing Act (FEHA). In 1999, FEHA was changed so that discrimination based on a person's source of income is now against the law.

### **What does "source of income" mean?**

"Source of income" is defined as legal, verifiable income paid directly to the tenant or his or her representative (such as a payee). Some examples of income types are Social Security, Supplemental Security Income (SSI), AFDC or CalWorks, unemployment insurance, veteran's benefits, pensions, and wages. It does not include income paid directly to the landlord, such as a Section 8 voucher, or income from illegal activities.

### **What is source of income discrimination?**

Landlords, real estate brokers, home sellers, mortgage companies, and banks may not refuse to deal with you because of the source of your income. They also cannot charge a higher deposit or treat you differently because of your source of income.

### **Can a landlord advertise or state a preference for certain sources of income?**

No. Making a statement or advertisement that indicates a landlord's preference or limitation based on an applicant's source of income is illegal.

### **Can landlords discriminate based on the amount of someone's income?**

Yes, that is considered a legitimate business concern for the landlord.

### **Can a landlord have a minimum income requirement?**

Yes, landlords can require that tenants have a certain amount of income (such as two or three times the rent).

### **Can a landlord require each person in the household to meet the minimum income requirement separately?**

A landlord can have such a requirement only if he or she would make a husband and wife who applied each meet the income requirement separately. Otherwise, the landlord must consider all household member's incomes combined to see if the household as a whole meets the minimum income requirement. In other words, landlords must use the minimum

income requirement in the same way for members of a married couple as for members of any household.

**How is the minimum income requirement calculated if the applicant has a Section 8 voucher?**

If the applicant receives a governmental rent subsidy, such as Section 8 or Shelter Plus Care, landlords can only use a minimum income requirement that relates to the tenant's portion of the rent. For example, suppose a landlord requires that a tenant's income must be three times the rent of \$900. If an applicant has a Section 8 voucher with a tenant-portion of the rent being only \$200 (because of her income), then the landlord can only require her income to be \$600 (three times her portion of the rent), not \$2700 (three times the total rent). If the landlord does otherwise, it constitutes discrimination.

**Can a landlord ask what an applicant's source of income is?**

Yes. Landlords cannot ask about other protected categories, such as marital status, disability, or ancestry. But the law allows landlords to ask about the source of an applicant's income as long as they do not discriminate based on that information.

**Do these laws apply to all housing?**

The fair housing protections for source of income apply to all housing EXCEPT a home in which the landlord lives and rents out only one room.

**Do these rules apply to banks and mortgage companies?**

Yes. Banks, mortgage companies, and real estate brokers cannot distinguish among applicants based on their sources of income.

**Some examples of source of income discrimination to watch out for:**

*"We don't take people on SSI."*

*"Two years steady employment required."*

*"Each roommate has to make three times the rent."*

*"I've found that people on CalWorks don't fit in well here."*

*"We don't give home loans unless you are employed full-time."*

*"Even if you have Section 8, you must make three times the full rent."*

*"Don't bother applying if you don't have a job."*

**What should someone do who has been discriminated against?**

Call Project Sentinel at (408) 287-HOME (4663). Project Sentinel will investigate your complaint. After the investigation, the case may be referred to the lawyers at Fair Housing Law Project or Asian Law Alliance for legal assistance. That assistance could include the submission of an administrative complaint to the Department of Fair Employment and Housing, mediation, or litigation. You also may ask one of these three agencies to try to reach a settlement agreement with the housing provider.