

The Fair Housing Handbook



A practical guide to understanding the right to fair housing in Kentucky

Explains how the Kentucky Fair Housing Act protects people from discrimination.

Informs housing providers how to comply with the law.

Provides instructions on how to get help and how to file a discrimination complaint.

Kentucky
Commission on
Human Rights

Kentucky
Department for
Local Government

Kentucky Housing
Corporation

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We can help.



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The Kentucky Commission on Human Rights, the Kentucky Department for Local Government, and the Kentucky Housing Corporation afford all persons equal employment opportunity and equal access to services without regard to race, color, national origin, disability, age, sex or religion.



This publication was printed with federal funds.

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Introduction

The right to fair housing, free from discrimination.

- “With the passage of the Fair Housing Law in 1968, Kentucky established a public policy of encouraging fair treatment and equal housing opportunities for all persons, regardless of race, color, religion or national origin.
- “The General Assembly said that discrimination against an individual represents an affront to the dignity of the individual against whom it is directed, intensifies group conflicts, and is detrimental to the public health, safety and welfare.
- “In 1972, the General Assembly broadened this law by eliminating all major exemptions and thus covering virtually all housing in Kentucky. Discrimination in the public sale or rental of an individual home by the owner was prohibited.
- “In 1980, the General Assembly again broadened the law to prohibit sex discrimination in housing.
- “In 1992, the General Assembly expanded the law to prohibit familial status and disability discrimination in housing.
- “The Kentucky Fair Housing Act provides equal opportunity to all who buy, sell, rent, finance or insure housing. It expands the real estate market by making all housing and property available to all Kentuckians. It protects the individual’s basic right to choose where to live.

The Kentucky Fair Housing Act

Discrimination is against the law.

What kind of housing is covered?

Real property, (home, apartments, lots, etc.) rented or sold, whether by or through a real estate broker, sales agent or operator, or directly by the owner with the intent of being used or occupied, or is designed or arranged, as a home or residency for one or more families.

Who must obey the law?

- Real estate operators, brokers and agents
- Savings & loan associations, mortgage lenders, banks, or other financial institutions
- Apartment house agents/managers
- Rental agents
- Builders, contractors and developers
- Owners of building lots
- Advertising media
- Homeowners advertising and selling their own home
- Multiple listing services/real estate related organizations
- Insurers and agents

What is housing discrimination?

Kentucky's Fair Housing Law forbids discrimination in housing because of a person's race, color, religion, national origin, sex, disability, or familial status. It also forbids retaliation.

It is unlawful for a real estate operator, broker, or sales agent:

- To refuse to sell, rent, lease or exchange real property for discriminatory reasons.
- To refuse to receive or transmit good faith offers to purchase or rent.
- To deny any services or facilities relating to real property transactions.

- “To represent that real property is not available for inspection, sale or rental when, in fact, it is.
- “To retain a listing with the understanding that the seller plans to discriminate.
- “To discriminate in the terms or conditions of sale or rental.
- “To engage in the tactics and practices of panic selling; to represent that the racial composition of a neighborhood may change or that property values may lower; or make similar false and misleading statements.

It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of any housing rights.

It is unlawful for an insurance agent:

- “To discriminate in terms, conditions, or privileges of insurance against hazards to a housing accommodation.

It is unlawful for a financial institution:

- “To discriminate in the granting, rates, terms, conditions or services of financial assistance in real estate transactions.
- “To discriminate in the making or purchasing of loans.

It is unlawful for a multiple listing service/real estate organization:

- “ To deny access or restrict membership or participation for discriminatory reasons.

It is unlawful to discriminate in relation to disability:

- “Refusal to make reasonable accommodations in rules, policies, practices and services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a housing accommodation.
- “ Refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises if the modifications may be necessary to afford the person full enjoyment of the premises.

It is unlawful to make, print, publish or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates a preference, limitation or discrimination based on a protected class.

Are there exemptions to the law?

The rental of an owner-occupied duplex or one room in a private home; the sale of property without help from a real estate dealer and without public advertising; and rental of church-owned housing to the extent of giving preference to those of that religion.

Refusal to rent on the basis of sex if:

“ A single sex dormitory; the landlord chooses not to rent to unmarried couples; or the landlord rents fewer than 10 units or to fewer than 10 persons in an owner-occupied facility; it can be demonstrated that gender-based exclusions are necessary for reason of personal modesty or privacy.

Refusal to rent on the basis of familial status if:

“ Housing is intended as housing for older persons: occupants 62 years of age or older; or 80 percent of all units in the facility have occupants 55 years of age or older and special services for older persons are provided.



It is illegal to say “no children allowed” when advertising, renting or selling property in Kentucky. (See exemption above this page.)

HOW HOUSING DISCRIMINATION CAN OCCUR (Examples)

Example 1: *An apartment complex owner rents to people of all age groups, but decides that families with young children can only rent in one particular building and not in others, because the building is close to the play area and younger children tend to make lots of noise and may bother other tenants.*

This is unlawful under the state and federal Fair Housing Laws based on familial status. The owner in this scenario rents to persons of all age groups; therefore, is not a complex restricted to seniors only. Landlords may not treat families with children under the age of 18 different from others, either with respect to building assignment or in any other way.

Example 2: *An apartment building owner places a notice on a community bulletin board to find a tenant for a vacant apartment. This notice says, "Christian preferred".*

This is unlawful under the state and federal Fair Housing Laws based on religion. It is illegal to advertise or make any statement that indicates a preference based on race, color, national origin, religion, sex, familial status or disability.

Example 3: *A property owner owns land, which he has designed into a trailer park. The park has 100 lots, each measuring 40 feet by 125 feet, with the mobile home, patio and parking area taking up most of the space. The owners limit the occupancy to a maximum occupancy restriction of four (4) persons.*

State and federal Fair Housing Laws permit landlords to establish maximum occupancy restrictions based on unit size, environmental issues, configuration of unit and any other special circumstances.

Example 4: *A landlord charges Hispanic tenants a higher deposit than non-Hispanic, because they cause more damage to the property.*

This is unlawful under the state and federal Fair Housing Laws based on national origin. It is illegal to charge different deposits based on any protected class.

Example 5: *A landlord requires that applicants for units go through a local credit check agency and requires a criminal check. To conduct these checks, the landlord has the applicants complete a form and charges a non-refundable \$25.*

This is not unlawful; however, the landlord must be consistent with this policy by requiring this of all applicants.

Example 6: *A landlord has written in the lease agreement that occupancy in any unit is limited to two school age children.*

This is making a statement inferring a preference for the type of persons living in a unit. It is recommended that instead of limiting the number of children in an occupancy standard statement, the statement should indicate the number of persons in a unit. An example of a reasonable standard would be: in a three-bedroom unit, six persons could occupy the unit.

Example 7: *In checking references on an application for a vacant apartment, a landlord learns that the applicant has a history of mental illness. Although the applicant is not a danger to anyone, the landlord does not want to rent to such a person.*

It is unlawful under the state and federal Fair Housing Laws for landlords to reject an application because of mental illness. However, housing does not have to be made available to a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.

Example 8: *A white family is selling their house through a real estate agent. They have only white neighbors. A few of the neighbors tell the family that if a non-white person buys the house, there would be trouble for that buyer. Not wanting to make it difficult for a buyer, the family tells the real estate agent that they will sell their house only to a white buyer.*

It is unlawful under the state and federal Fair Housing Laws for a seller to restrict the sale of their house only to white buyers when working with a real estate agent or using advertisement. It is unlawful to restrict the sale of a house based on any of the protected classes.

Example 9: *A black family looking to buy a house goes to a real estate agent and asks about the availability of houses within their price range. Assuming the family would only want to buy in areas where black people live, the agent decides to show them only houses in all-black neighborhoods, even though there are many houses in their price range in other parts of the community.*

This is unlawful under state and federal Fair Housing Laws based on what is called “steering.” It is illegal for a real estate agent to restrict a client’s housing search to a neighborhood with a certain racial composition.

Example 10: *A black person applies to a bank for a mortgage loan. He does not have a steady job or enough income to pay a monthly mortgage payment. When he did work, the job did not pay much. Because of his lack of a steady job and insufficient income, the loan officer decided not to give this person a mortgage.*

A loan officer can turn down an applicant because the applicant lacks sufficient income to cover the monthly mortgage payment. However, the loan officer can not deny an applicant based on a protected class.

Frequently Asked Questions

Q - If a landlord has a "No Pets" policy, can he/she refuse to rent to a disabled person who requires a guide dog/service animal? If not, can a fee be charged for a service animal?

A - NO. A landlord may have a 'no pets' policy and enforce that policy, however, a guide dog/service animal is not a pet. Its purpose is to assist a person with a disability and acceptance of the service animal would be considered a reasonable accommodation. No pet fee or additional deposit may be charged to a person with a disability for having a service animal residing on the premises.

Q - If a landlord agrees to permit a renter to make necessary modifications, is it all right to charge a higher rent or security deposit to cover the cost of converting back to the original condition when the premises is vacated?

A - NO. Charging higher rents or deposit is potentially unlawful because it may appear to be a different term or condition based on a protected class (disability). A landlord and renter may, however, negotiate a dollar amount, which would be deposited into an escrow account, and which would be sufficient to cover the cost of conversion when the premises are vacated.

Q - If a landlord has knowledge about a mental illness that an applicant has and the landlord is afraid the applicant's behavior may upset the other residents, is it legal to refuse to rent to that person? Does a landlord have to rent to an applicant that has a record of violent behavior?

A - A person with a mental disability who applies for housing should be screened in the same manner and held to the same eligibility standards as other applicants. Acceptance or rejection of that person as a renter should be based on whether or not they meet eligibility standards, not on the fact that the person has a disability. An applicant's acceptance needs to be based on standards relating to rental history and behavior, not on the mental disability. There may, however, be instances in which a disability has affected the individual's ability to meet the eligibility standards and the landlord might permit an accommodation. For example, an individual's credit may be poor due to the disability, but everything else has checked out. The landlord might agree to a six-month lease as a trial period and extend to the usual full year if the rent is paid in full and on time. The law states that housing need not be made available to an individual whose tenancy would constitute a direct threat to the health or

safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. Although some behaviors may be the result of a mental illness, the law does exclude certain behaviors from the protection of the law.

Q - Is an individual who is HIV Positive or who has AIDS protected by this law?

A - YES. Persons who have AIDS or are HIV Positive have protected class status under disability and are entitled to the full protection of the law. In addition, KRS 207.250 makes it unlawful to disclose the fact that a current or former occupant is infected with HIV or has AIDS and also protects an owner or his/her agent from legal action for the failure to disclose that information.

Q - Can a landlord put families with children in one section?

A - NO. Even though the landlord may believe that having the children in one section than another is a benefit, it is a violation of the law based on familial status. This is an act of keeping individuals from certain locations, known as steering.

Q - Can you advertise "No Children"?

A - NO. No one can advertise a preference based on any of the protected classes.

Q - Can you limit the number of school age children?

A - NO. The rule of thumb is two persons per bedroom, which makes no reference to "children". When making reference to children, you are stating a preference. Occupancy standards may be set to establish the number of persons in a unit.

Q - Does a landlord have to rent to persons who are in the United States illegally?

A - All applicants must be treated the same. As long as the applicant is not being denied housing because of his/her National Origin, but because they are unable to provide the necessary documents for a credit/record check, which must be required of all applicants, the landlord can refuse rental.

Q - Do I have to provide an interpreter for a person who does not speak English?

A - An interpreter must be provided when requested.

Q - Can a landlord refuse to rent to an applicant because of their religious belief?

A - NO. This is discriminatory in making a preference, which is unlawful.

Q - Can a landlord rent to single men and not single women?

A - NO. This is discriminatory on the basis of sex; however, if there is a shared bath or kitchen, there could possibly be an exemption.

About Us

The Kentucky Commission on Human Rights

HOW TO FILE A DISCRIMINATION COMPLAINT

A person who believes he or she has been discriminated against may contact the Kentucky Commission on Human Rights (KCHR) by telephone, mail, e-mail, via website or in person. An enforcement officer will ask questions to develop a better understanding of the complaint and to ascertain what actions need to be taken. Complaints must be filed in a timely fashion. A housing complaint must be filed within one year of the incident. All complaints must be signed and notarized.



The Kentucky Commission on Human Rights (KCHR) is the agency within state government created to ensure equality in Kentucky. Our purpose is to protect people from discrimination by enforcing the Kentucky Civil Rights Act. KCHR's duty is to receive, initiate, investigate, seek to conciliate, conduct hearings, and rule upon complaints alleging violations of the Kentucky Civil Rights Act.

We are proud of our achievements in human rights, which stretch over the last four decades. With headquarters in Louisville and the Northern Kentucky office in Covington, KCHR has opened doors of opportunity to thousands of people.

Our agency is made up of the commission body, the executive director and 35 staff members. The commission body consists of the chair and 10 commissioners who hear and rule on discrimination complaints. In addition, KCHR vigorously carries out the task of helping people in Kentucky understand the importance of civil rights and equality. Education, outreach and public awareness are the tools we use to share knowledge, foster understanding of the law, and work toward a better world.

KCHR is located at 332 West Broadway, Suite 700, Louisville, KY 40202. For more information about the right to fair housing and other civil rights, or to file a discrimination complaint, call us at 1.800.292.5566 or 502.595.4024. You may visit our website at www.state.ky.us/agencies2/kchr.

The Kentucky Department for Local Government

BUILDING NEW HOMES AND NEW FUTURES

The Kentucky Department for Local Government (DLG) recognizes that home ownership adds not only to the stability of a family, but also to the stability of the community.

Because of that recognition, DLG assists communities in providing affordable housing throughout the Commonwealth of Kentucky through grants provided by the U.S. Housing and Urban Development's Small Cities Community Development Block Grant (CDBG) Program.



DLG partners with local governments, other state agencies, nonprofit organizations and the federal government to fund projects that improve individual homes and whole neighborhoods for Kentucky's low-to-moderate income families. DLG's main financial contribution to affordable housing across the state is through the CDBG program, which is approximately \$5 million to \$8 million annually. County and municipal governments are eligible to apply for CDBG funds.

Through the CDBG program, DLG has the responsibility to affirmatively further fair housing in the state. In meeting that charge, DLG requires grant recipients to actively promote fair housing for all people within its jurisdiction. As a result of that affirmative commitment, the grantee, or community, will:

- Encourage residents to exercise the greatest choice for housing in the jurisdiction;

- Lessen racial, ethnic, and economic concentrations of housing;

- Facilitate desegregation and racially-inclusive patterns of occupancy and use of public facilities through educational efforts for all segments of the population, and;

- Administer the project in a manner to affirmatively further fair housing choice.

Each grantee government also is required to pass a fair housing resolution to be published in a newspaper of general circulation or posted in prominent locations throughout the community.

DLG staff follows up on all statutory requirements through site visits, project monitoring and the provision of information on current fair housing issues such as predatory lending and accessibility for the handicapped.

For additional information, contact Michael Hale at (502) 573-2382 or toll free at (800) 346-5606.

Kentucky Housing Corporation

PATHWAYS HOME

Kentucky Housing Corporation (KHC) was created to provide safe, decent, affordable housing opportunities for very low-, low- and moderate-income Kentuckians.



Recognizing that housing is a basic human need, KHC is committed to pursue all partnerships and resources necessary to promote, develop and provide affordable housing, thereby improving the quality of life for all Kentuckians.

Kentucky Housing Corporation maintains an on-going commitment to fair housing choice through its Homeownership programs and through its partners providing affordable housing around the state. All Kentucky Housing partners that receive its financial assistance are required to uphold the following fair housing activities:

- Develop a fair housing plan to encourage equal housing opportunities.

- Develop an affirmative marketing program to reach targeted populations who would be least likely to apply for housing.

- Include provisions in contracts, written agreements and other legal documents that promote the use of businesses owned by minorities and females.

- Promote the design and construction of housing in a manner that ensures maximum use by all persons.

- Promote fair housing by displaying posters and brochures to ensure the public is aware of its rights.

KHC staff monitors compliance with the requirements by conducting site visits, reviewing files and reviewing annual performance reports.

For additional information, contact Charles Leachman, KHC's fair housing specialist, at (800) 633-8896 or (502) 564-7630, extension 440.

