



bankers' compliance group®

DFPI Issues Updated Fair Lending Notice

The California Holden Act prohibits redlining and other discriminatory practices. California Health & Safety Code Section 35800 *et seq.* and 21 California Code of Regulations (CCR) 7100 *et seq.* In addition, the Holden Act requires lenders to provide a Fair Lending Notice when an applicant submits a written application for housing financial assistance. Lenders must also post the Fair Lending Notice in a conspicuous place for public inspection (such as in a public lobby). 21 CCR 7114.

This Fair Lending Notice must include the address of the agency where complaints may be filed and where questions may be asked. It must also list the prohibited bases of discrimination. The CCR's 2002 model Fair Lending Notice is quite outdated. For example, it does not list all of the current prohibited bases of discrimination (for example, it omits veteran and military status). It also does not list the correct agency for state-chartered banks and credit unions or other state-supervised entities (it still reflects the former Department of Financial Institutions and not the Department of Financial Protection and Innovation (DFPI)).

In informal communications, DFPI staff confirmed in October 2020 that, for example, state-chartered banks and credit unions should list the DFPI's name and address in their Fair Lending Notices, despite the fact that the model form says otherwise. At that time, the DFPI did not speak to what prohibited bases creditors should list in the Fair Lending Notice.

On October 12, 2021, the DFPI announced an updated model Fair Lending Notice, which reflects the DFPI as well as a more extensive list of prohibited bases. The updated form is available at <https://dfpi.ca.gov/wp-content/uploads/sites/337/2021/10/DFPI-1977-FAIR-LENDING-NOTICE.pdf>. Federally chartered institutions should update their Fair Lending Notices to reflect those additional prohibited bases. Of course, other entities that are supervised by the DFPI and subject to the Holden Act, such as California Residential Mortgage Lenders, should update their Notices too (to reflect the DFPI, if they haven't already, and reflect the more-extensive list of prohibited bases).

The DFPI did not say how soon institutions and creditors must update their notices. Of course, as soon as possible is the safest time frame.

Contact Stephanie Shea at [SShea@ABLawyers.com](mailto:sshea@ablawyers.com) with any questions.

10/12/2021

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