



Affirmatively Furthering Fair Housing: California's New Law (Assembly Bill 686)

Effective **January 1, 2019**, Assembly Bill 686 (AB 686) has introduced a duty to affirmatively further fair housing into California state law.

What is the Obligation to Affirmatively Further Fair Housing (AFFH)?

Congress, in passing the federal Fair Housing Act, realized that simply prohibiting housing discrimination was not sufficient to address the entrenched patterns of residential segregation across the United States. This recognition resulted in lawmakers including a duty to affirmatively further fair housing (AFFH) in the text of the landmark 1968 fair housing law.

The AFFH obligation requires all federal agencies, including HUD, and their funding recipients to take steps to proactively address segregation in programs and activities related to housing and community development.

In 2015, HUD issued a regulation requiring local governments receiving federal funds (e.g., Community Development Block Grants) and public housing authorities to complete an Assessment of Fair Housing as a condition of receiving HUD funds.

The regulation required local governments and housing authorities to identify the policies, practices, or conditions that shaped disparities in access to housing and broader opportunities experienced by communities of color, persons with disabilities, and other groups protected by the Fair Housing Act (“protected groups”).

More importantly, the regulation mandated that local governments and housing authorities identify meaningful goals to address the impacts of systemic issues such as residential segregation, housing cost burden, and unequal educational or employment opportunities to the extent these issues create and/or perpetuate discrimination against protected groups.

Why is AB 686 Necessary?

The Trump Administration has stopped implementing the 2015 AFFH regulation, and is expected to take further steps to weaken the regulation. In response, the California legislature passed AB 686,¹ which was signed into law in 2018.

What Does AB 686 Do?

- Introduces an AFFH obligation into state law
- Defines “affirmatively furthering fair housing” to mean taking meaningful actions that “overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity” for communities of color, persons with disabilities, and others protected by California law
- Requires the state, cities, counties, and public housing authorities to administer their programs and activities related to housing and community development in a way that affirmatively furthers fair housing
- Prohibits the state, cities, counties, and public housing authorities from taking actions materially inconsistent with their AFFH obligation
- Requires that the AFFH obligation be interpreted consistent with HUD’s 2015 regulation, regardless of federal action regarding the regulation
- Adds an AFFH analysis to the Housing Element (an existing planning process that California cities and counties must complete) for plans that are due beginning in 2021
- Includes in the Housing Element’s AFFH analysis a required examination of issues such as segregation and resident displacement, as well as the required identification of fair housing goals

Where Can Advocates Get More Information?

Advocates can get more information by contacting the National Housing Law Project (NHLP) at rwilliams@nhlp.org. NHLP is working with partners in California to successfully implement AB 686.

To read the text of AB 686, please visit:

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB686.

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¹ The National Housing Law Project, Public Advocates, and Western Center on Law & Poverty co-sponsored the bill, authored by Assemblymember Miguel Santiago.