SENATE COMMITTEE ON
BANKING AND FINANCIAL INSTITUTIONS
Senator Timothy Grayson, Chair
2025 - 2026 Regular

Bill No:	AB 801	**Hearing Date:**	June 17, 2026
Author:	Bonta		
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Urgency:	No	**Fiscal:**	Yes
Consultant:	Michael Burdick		

Subject: Nondiscrimination

SUMMARY

This bill requires the Department of Financial Protection and Innovation to examine, at least once every four years, each bank, credit union, and residential mortgage lender under the supervision of the department for compliance with any applicable nondiscrimination law, as specified.

EXISTING STATE LAW

1) Establishes the Department of Financial Protection and Innovation (DFPI) as the state agency responsible for licensing, regulating, and supervising a range of financial services companies that provide products or services to California consumers, including but not limited to, certain banks and credit unions, finance lenders and brokers, residential mortgage lenders, and persons offering or providing consumer financial products or services. (Financial Code Section 300)

2) Prohibits a person or business entity from engaging in the following businesses without a certificate of authorization or license, as specified, issued by DFPI:

   a) Banking and trust (Financial Code Section 1005),

   b) Credit union (Financial Code Section 14150), and

   c) Residential mortgage lender (Financial Code Section 50120).

3) Authorizes the commissioner of DFPI to examine the books, records, and accounts of any person or business authorized to engage in the businesses described in #2. (Financial Code Sections 500, 14250, and 50302)

4) Clarifies and streamlines the authority provided to DFPI to take enforcement action for an unfair, deceptive, or abusive act or practice conducted by a person acting under the authority of a specified licensing law. (Financial Code Sections 90002 and 90003)

5) Prohibits, pursuant to the Fair Employment and Housing Act, discrimination on the basis of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, source of income, veteran or military status, or genetic information in the terms, conditions, or privileges relating to the obtaining or use of financial assistance for the purchase, refinance, organization, or construction of any housing accommodation. (Government Code Section 12955)

6) Prohibits, pursuant to the Holden Act, a financial institution from discriminating in providing mortgage financing, as specified, due to the consideration of conditions, characteristics, or trends in the neighborhood or geographic area surrounding the housing accommodation, unless the financial institution can demonstrate such discrimination is required to avoid an unsafe and unsound business practice. (Health and Safety Code Section 35810)

7) Provides that all persons in California are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever. (Civil Code Section 51, known as "the Unruh Civil Rights Act")

8) Provides the California Consumer Financial Protection Law (CCFPL) which authorizes DFPI to regulate the provision of consumer financial products and services in this state. (Division 24 of the Financial Code, commencing with Section 90000)

9) Prohibits a person covered by the CCFPL from the following:

   a) Engaging in any unlawful, unfair, deceptive, or abusive act or practice (UDAAP) with respect to consumer financial products or services.

   b) Offering or providing to a consumer any financial product or service not in conformity with any consumer financial law or otherwise committing any act or omission in violation of a consumer financial law. (Financial Code Section 90003)

EXISTING FEDERAL LAW

1) Provides the Equal Credit Opportunity Act (ECOA) that prohibits creditors from discriminating against credit applicants on the basis of race, color, national origin, and other specified factors. (15 U.S.C. 1691 et seq., 12 CFR Part 1002)

2) Provides the Fair Housing Act (FHA) that prohibits discrimination by direct providers of housing, as well as financing of housing by lenders, based on specified protected classes. (42 U.S.C. 3601 et seq.)

3) Provides the Home Mortgage Disclosure Act that requires many financial institutions to maintain, report, and publicly disclose loan-level information about mortgages. (12 U.S.C. Section 2801 et seq., 12 CFR Part 1003)

4) Provides the Consumer Financial Protection Act of 2010 that establishes the Consumer Financial Protection Bureau (CFPB) and authorizes the CFPB to take enforcement action against a person that commits or engages in an unfair, deceptive, or abusive act or practice in connection with a consumer financial product or service. (12 U.S.C. Subchapter V, Section 5481 et seq.)

THIS BILL

For each bank, credit union, and California Residential Mortgage Lending Act licensee under the examination authority of DFPI (referred to as "financial institution" in the following paragraphs):

1) Requires DFPI to, at least once every four years, examine the books and records of the financial institution for compliance with any applicable nondiscrimination law, including ECOA, FHA, and the Unruh Civil Rights Act.

2) Authorizes DFPI:

   a) To examine the books, records, and documents of the financial institution and examine the financial institution's officers, directors, employees, or agents under oath regarding the financial institution's operations.

   b) To cooperate with any agency of the state or federal government, other states, agencies, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, and allows DFPI to accept an examination conducted by one of these entities in place of an examination by DFPI, unless DFPI determines that the examination does not provide information necessary to enable DFPI to fulfill its responsibilities.

3) Requires DFPI to provide a written statement of the findings of the exam required by #1 above, issue a copy to the financial institution, and to take appropriate steps to ensure correction of any violations of applicable nondiscrimination laws. Protects the written statement from public disclosure and limits such disclosure to only the financial institution, law enforcement officials, or other state or federal regulatory agencies for further investigation and enforcement.

4) Subject an affiliate of a financial institution to the examination authority described in #2, if a report from, or examination of, a financial institution provides documented evidence of unlawful activity between the financial institution and affiliate.

5) Requires DFPI to assess to the financial institution a fee for the purpose of covering the costs of the examination required by #1 that does not exceed the reasonable expenses of the examination.

6) Provides that a violation of an applicable nondiscrimination law is a violation of the licensing law that governs the financial institution and authorizes DFPI to use authority provided by the licensing law or the CCFPL to bring an appropriate enforcement action based on the nature of the violation.

COMMENTS

1) *Purpose*

   According to the author:

   > AB 801, the California Fair Lending Examination Act, requires the Department of Financial Protection and Innovation (DFPI) to examine banks, credit unions, and licensed independent mortgage companies under its jurisdiction for compliance with state and federal fair lending laws at least once every four years. These examinations will evaluate compliance with the federal Equal Credit Opportunity Act (ECOA), the federal Fair Housing Act (FHA), and California's Unruh Civil Rights Act, including identifying both intentional discrimination and lending practices that result in disparate impacts not justified by a legitimate business necessity.

2) *Background*

   Disparities in access to financial services among income groups and along racial and ethnic categories have persisted for decades. As outlined in a speech by a top federal financial

regulator during the Biden Administration, Black and Hispanic households are five times as likely as White households to be unbanked; the wealth gap between Black and White Americans in modern times is roughly the same as it was before the passage of the Civil Rights Act of 1964; and Black-owned businesses are more likely to be denied credit even after controlling for differences in creditworthiness.[1] Furthermore, the gap in the homeownership rate between Black and White Americans is now the same as it was before the passage of the Fair Housing Act in 1968.

Federal and state law establish bedrock prohibitions against discrimination that apply to certain financial services transactions. The federal Fair Housing Act (FHA) prohibits, among other things, discrimination in housing-related activities, including the making of loans to buy, build, repair, or improve homes. The federal Equal Credit Opportunity Act (ECOA) prohibits discrimination in credit transactions more broadly, including credit cards, personal loans, car financing, and retail sales financing, as well as mortgages. State law provides additional protections from discrimination through the Fair Employment and Housing Act, the Holden Act, and the Unruh Civil Rights Act.

Existing nondiscrimination laws that apply to financial services have various enforcement mechanisms. At the federal level, public agency enforcement may be conducted by the Office of Fair Housing and Equal Opportunity within the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Justice, or Consumer Financial Protection Bureau (CFPB), depending on the nature of the complaint. At the state level, public enforcement typically occurs through the Civil Rights Department. In lieu of public enforcement, victims of discrimination may file a lawsuit in federal or state court, with existing law providing a variety of remedies that may be awarded to a prevailing plaintiff.

To assist regulators with monitoring for discriminatory practices in mortgage markets, the Home Mortgage Disclosure Act (HMDA) was enacted in 1975. HMDA requires many financial institutions to maintain, report, and publicly disclose loan-level information about mortgages. On its own, the HMDA dataset is insufficient to prove discrimination, but financial regulators can use the dataset to target institutions for closer examination, wherein the regulator can examine loan files that contain borrower-specific information not reported under HMDA.

3) *Fair lending exams*

A fair lending exam refers to the process whereby a financial regulator investigates and analyzes the records of a financial institution to determine whether the financial institution has complied with relevant nondiscrimination laws. Depository institutions and larger nonbank mortgage lenders are subject to fair lending exams conducted by federal regulators, though significant policy changes under the current federal administration have narrowed the scope of exams or even curtailed exams altogether. But taking a historical perspective on fair lending exams, one or more federal regulators had authority to conduct a fair lending exam on a given financial institution, depending on the type and size of the institution. Recognizing overlapping authorities, the federal regulators agreed on a set of interagency exam procedures to reduce duplicative or conflicting approaches between regulators.[2] These procedures aided examiners in establishing the scope of the exam (i.e., the products, markets, time frame, and protected groups to analyze) and the intensity of the exam (i.e., the breadth

[1] https://www.ots.treas.gov/news-issuances/speeches/2022/pub-speech-2022-15.pdf
[2] https://www.ffiec.gov/sites/default/files/media/press-releases/2021/2021-june-17-fairlend.pdf

and depth of the analysis to be conducted on the selected loan products). Notably, these procedures recognized the three methods of proof of lending discrimination under FHA and ECOA: overt evidence of disparate treatment, comparative evidence of disparate treatment, and evidence of disparate impact.

Disparate treatment occurs when a lender treats a credit applicant differently based on one of the prohibited bases, such as race or sex. Disparate treatment can be identified on the basis of overt evidence when a statement or record reveals that a lender explicitly considered prohibited factors in their lending activities or on the basis of comparative evidence when differences in treatment are not fully explained by legitimate nondiscriminatory factors. Comparative evidence does not require showing that the treatment was motivated by prejudice or a conscious intention to discriminate.

Disparate impact describes a racially (or based on a different protected class) neutral policy or practice that is applied equally to all credit applicants but still results in the disproportionate exclusion of certain persons on a prohibited basis. In addition to showing that a disparate impact exists, in order to be considered a violation of FHA or ECOA, the examiner would need to determine if the policy or practice is justified by "business necessity." Even if the policy or practice that has a disparate impact can be justified by business necessity, a violation could be found if an alternative policy or practice could serve the same business purpose with less discriminatory effect.

Recent policy changes announced by the Trump administration make a significant amount of the preceding paragraphs moot. An executive order issued in April 2025 requires federal regulators to eliminate the use of disparate-impact liability to the maximum degree possible.[3] Later that year, the Office of the Comptroller of the Currency, which supervises national banks, paused fair lending exams altogether, while HUD pulled back its own fair lending efforts.[4] In April 2026, the CFPB issued a final rule that substantially curtails fair lending enforcement under ECOA.[5] Given these rollbacks, federal regulatory agencies are unlikely to bring enforcement actions under nondiscrimination laws, except for overt, individual cases. In a blow to underserved communities, these policy changes also include curtailment of special purpose credit programs that have allowed creditors to structure lending programs to extend credit to groups of consumers sharing common characteristics who would not receive such credit or would receive it on less favorable terms.

4) *Proposed state-level exams*

This bill requires DFPI to administer fair lending exams of each bank, credit union, and California Residential Mortgage Lending Act (CRMLA) licensee under the supervisory authority of the department. Relative to banks and credit unions, the DFPI has supervisory authority of those institutions that have a California state charter, which does not include national banks, federal credit unions, or banks and credit unions chartered under another state's laws. With respect to CRMLA licensees, the DFPI supervises nondepository mortgage lenders, servicers, and originators who collectively comprise a majority of mortgage market activity in the state, particularly in the federally-backed mortgage markets.

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[3] https://www.whitehouse.gov/presidential-actions/2025/04/restoring-equality-of-opportunity-and-meritocracy/
[4] https://finsights.cooley.com/occ-to-halt-fair-lending-exams/
[5] https://www.bakerdonelson.com/cfpbs-new-fair-lending-rule-is-out-no-surprises-but-big-changes

This bill requires DFPI to conduct a fair lending exam of each covered licensee once every four years. The purpose of the exam is to determine compliance with any applicable nondiscrimination law, including ECOA, FHA, and the Unruh Civil Rights Act. Upon completion of the exam, DFPI must provide a written statement of findings, issue a copy of that statement to the financial institution, and take appropriate steps to ensure correction of any violation of applicable nondiscrimination law, including a disparate impact for any category of persons specified in the Unruh Civil Rights Act. The bill provides that a violation of any applicable nondiscrimination law is a violation of the licensing law to which the financial institution is subject.

As drafted, the bill does not define the scope or intensity of the required exam. Unless amended to further specify, the decisions on how to structure the exam is delegated to DFPI. Similarly, the bill does not specify exam procedures, except for authorizing the DFPI to partner with other federal or state regulators that may conduct similar exams. In line with exams required by existing licensing laws, the bill requires the DFPI to assess a fee to the licensee to cover the reasonable expenses of the examination.

5) *Implementation considerations*

The intent of this bill is to ensure compliance with existing state and federal nondiscrimination laws by financial institutions under the state's jurisdiction. Particularly given the rollbacks at the federal level, a stronger role for the state financial regulator is justifiable. Looking beyond financial services, it also clear that the current federal administration is undermining hard-fought gains in civil rights, in a manner inconsistent with the values held by a majority of Californians.[6]

As the author continues to work on this bill, several implementation issues may be worth considering. First, the mandatory exam frequency of once every four years for each licensee covered by the bill may generate significant costs for the department and licensees, while returning diminishing benefits over time. This bill proposes a new, standalone exam without authorizing DFPI to add a new scope of issues to existing exam procedures and frequencies. Some financial institutions have strong processes in place to ensure full compliance with nondiscrimination laws, including mechanisms to detect and address any disparate impacts that may arise from their business activities. A mandatory exam every four years may have low probability of revealing discriminatory activities, yet the DFPI will need to maintain staff capacity to meet the required exam frequencies. These costs are borne initially by the department but are recovered via fees charged to licensees. To address concerns that may arise from DFPI or licensees, the author could consider a more flexible exam requirement that provides more discretion to DFPI on the frequency of exams, allows for smaller institutions to be exempt from or subject to fewer and less frequent exams, or exemptions or relaxation of frequency of exams for a licensee that shows satisfactory compliance during an initial exam conducted after this bill is enacted.

Second, the author may consider whether the bill should include language that either authorizes or requires DFPI to employ technological solutions to examine a licensee's loan records for disparate impacts. Disparate impact analysis is often conducted using statistical tools which may be easier to standardize and automate, so long as the law provides sufficient direction and authority for DFPI to do so. For example, if the bill authorized DFPI to require

[6] https://www.ppic.org/blog/californians-racial-attitudes-and-the-reparations-task-force/

a licensee to provide its HMDA dataset in a specified format, DFPI may be able to design more efficient and scalable processes that reduce the overall costs of administering the bill. Related, the bill could direct DFPI to research and determine best practices employed by federal regulatory agencies that, prior to the recent policy changes, conducted similar analyses as contemplated by this bill.

Third, the author may consider clarifying which state and federal nondiscrimination laws are best fits within the contemplated exam and provide authority to DFPI to partner or rely upon other state agencies, if necessary. For example, the state Fair Employment and Housing Act and Holden Act are not specified as applicable nondiscrimination laws in the bill, but either or both may be appropriately structured to fulfill the author's intent within the exam framework. Relatedly, other state agencies, particularly the Civil Rights Department, have responsibilities and authorities related to nondiscrimination. The author could consider whether DFPI should collaborate with or rely upon the work conducted by other departments when determining the scope or frequency of exams.

Fourth, the author may consider clarifying the scope of lending products subject to a fair lending exam under this bill. If costs and administrative burden are a significant consideration, the bill could be narrowed to apply only to mortgage lending, which would effectively carve out credit card, personal loans, and auto financing products offered by some depository institutions. Such a narrowing may have the additional benefit of reducing the risk that DFPI could run afoul of federal preemption arguments that could arise with the recent narrowing of ECOA regulations by the CFPB that remove disparate impact liability from the law.

6) *Arguments in Support*

The Greenlining Institute writes in support:

> The need for AB 801 is urgent. The federal government has sharply curtailed fair lending enforcement: the CFPB eliminated disparate impact as a liability theory under ECOA, the Department of Housing and Urban Development (HUD) proposed repealing its Fair Housing Act disparate-impact rule, and HUD's fair housing staff was cut by 65%. California cannot rely on federal oversight that no longer exists.
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> AB 801 fi lls this gap by establishing a mandatory 48-month examination cycle covering every DFPI-regulated lender: banks, credit unions, and independent mortgage companies. It expressly covers both intentional discrimination and lending practices with unjustifi ed disparate impacts on protected classes, preserving California's standard even as federal protections have been rolled back. Critically, independent mortgage companies, the primary source of mortgage credit for borrowers of color in California, are included for the fi rst time in a structured, recurring examination requirement.
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> This bill does not create new substantive obligations. It ensures that existing fair lending laws are actually examined and enforced. Without an examination structure, California's fair lending protections exist on paper but not in practice.

7) *Arguments in Opposition*

The California Credit Union League writes in opposition:

> Credit unions strongly support fair lending laws and equal access to financial services. Discrimination in lending has no place in California, and credit unions remain committed to serving all eligible consumers fairly and equitably. However, AB 801 creates a new regulatory framework that is unnecessary, duplicative of existing oversight, and likely to create significant legal and compliance uncertainty for California state-chartered credit unions.

The letter goes on to outline concerns relate to added costs of exams, uncertainty caused by the disparate impact standard, insufficient confidentiality provisions, and unequal application to state, compared to federal, credit unions.

8) *Double Referral*

This bill is double referred to the Committee on Judiciary.

LIST OF REGISTERED SUPPORT/OPPOSITION

Support

City of Oakland Mayor Barbara Lee
Housing and Economic Rights Advocates
National Alliance to End Homelessness
Oakland City Council Member Rowena Brown
The Greenlining Institute

Opposition

California Bankers Association
California Credit Union League
California Independent Bankers of the Independent Community Bankers of America

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