THIRD READING

Bill No: AB 801
Author: Bonta (D), et al.
Amended: 8/18/26 in Senate
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 5-2, 6/17/26
AYES: Grayson, Cervantes, Hurtado, Reyes, Richardson
NOES: Niello, Strickland

SENATE JUDICIARY COMMITTEE: 11-2, 6/30/26
AYES: Umberg, Allen, Ashby, Caballero, Durazo, Laird, Reyes, Stern, Wahab, Weber Pierson, Wiener
NOES: Niello, Valladares

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/13/26
AYES: Cervantes, Cabaldon, Grayson, Richardson, Wahab
NOES: Seyarto, Dahle

ASSEMBLY FLOOR: 45-15, 6/3/25 - See last page for vote

SUBJECT: Nondiscrimination

SOURCE: Author

DIGEST: This bill requires the Department of Financial Protection and Innovation (DFPI) to examine specified banks, credit unions, and residential mortgage lenders under the supervision of the department for compliance with any nondiscrimination law applicable to mortgage lending.

Senate Floor Amendments of 8/18/26, are technical and clarifying in nature.

ANALYSIS:

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 United States Code (U.S.C.) 1691 et seq., 12 Code of Federal Regulations (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.)

Existing state law:

1) Establishes 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)

This bill:

For each bank, credit union, and California Residential Mortgage Lending Act licensee under the examination authority of DFPI, unless otherwise exempt (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 nondiscrimination law applicable to mortgage lending, as specified.

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.

   c) To exempt from examination, or examine less frequently than otherwise required by #1, above, a financial institution that demonstrates full compliance with applicable nondiscrimination law in the most recent examination.

3) Requires DFPI to align the schedule of examinations required by this bill with scheduled examinations under other laws administered by DFPI. Provides that DFPI maintains authority to conduct a targeted or off-schedule examination for due cause, such as receiving complaints or other evidence related to potential discrimination.

4) Exempts a credit union or bank from #1, above, if the credit union made fewer than 25 closed-end mortgage loans and fewer than 200 open-end lines of credit, as specified by regulations promulgated pursuant to the federal Home Mortgage Disclosure Act.

5) 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.

6) Subjects 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.

7) 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.

8) 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.

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.

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[1] **https://www.ots.treas.gov/news-issuances/speeches/2022/pub-speech-2022-15.pdf**

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.

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 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 neutral policy or practice that is applied equally to all credit applicants but still results in the disproportionate exclusion of certain

[2] **https://www.ffiec.gov/sites/default/files/media/press-releases/2021/2021-june-17-fairlend.pdf**

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.

Proposed state-level exams. This bill requires DFPI to administer fair lending exams of certain bank, credit union, and California Residential Mortgage Lending Act (CRMLA) licensees 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.

The purpose of the exams required by this bill is to determine compliance with any nondiscrimination law applicable to mortgage lending. 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

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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**

correction of any violation of applicable nondiscrimination law, including a discriminatory effect under the California Fair Employment and Housing Act that is not attributable to a legitimate business interest. 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, this bill does not define the scope or intensity of the required exam, with these decisions implicitly delegated to DFPI. Similarly, this 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, unknown costs, potentially ranging in the mid-hundreds of thousands of dollars, for DFPI to establish procedures, update training, and conduct examinations (Financial Protection Fund). Fees from examination assessments may offset DFPI's administrative costs. To the extent that DFPI may streamline examinations required by this bill into its existing exam schedules and workload, actual costs may be lower.

SUPPORT: (Verified 8/13/26)

Access Plus Capital
Alameda County Board of Supervisors
Anew America Community Corporation
Asian Business Association of Los Angeles
Asian Business Association of Silicon Valley
Asian Pacific Islander Small Business Collaborative
California Public Banking Alliance
California Yimby
Cameo Network
Center for Responsible Lending
City of Oakland Mayor Barbara Lee
Consumer Action
Consumer Federation of America
Consumer Federation of California
End Poverty in California
Housing and Economic Rights Advocates
Housing and Economic Rights Advocates
National Alliance to End Homelessness

Oakland City Council Member Rowena Brown
Public Counsel
Small Business Majority
Southern California Black Chamber of Commerce
The Greenlining Institute
The Unity Council
Ventures

OPPOSITION: (Verified 8/13/26)

None received

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 fills 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 unjustified 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 first 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.

ASSEMBLY FLOOR: 45-15, 6/3/25
AYES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Bennett, Berman, Boerner, Bonta, Bryan, Caloza, Carrillo, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Jackson, Kalra, Lee, Lowenthal, McKinnor, Muratsuchi, Ortega, Patel, Pellerin, Ramos, Ransom,

Celeste Rodriguez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas
NOES: Alanis, Chen, Davies, DeMaio, Dixon, Ellis, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Macedo, Patterson, Sanchez, Tangipa, Wallis
NO VOTE RECORDED: Ávila Farías, Bains, Bauer-Kahan, Calderon, Castillo, Connolly, Flora, Irwin, Krell, Lackey, Nguyen, Pacheco, Papan, Petrie-Norris, Quirk-Silva, Michelle Rodriguez, Rogers, Blanca Rubio, Ta

Prepared by: Michael Burdick / B. & F.I. /
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