CONCURRENCE IN SENATE AMENDMENTS
AB 801 (Bonta)
As Amended August 18, 2026
Majority vote

## SUMMARY

This bill requires the Department of Financial Protection and Innovation (DFPI) to examine the books and records of any bank, credit union, and licensee subject to the DFPI's examination authority for compliance with applicable federal or state nondiscrimination laws at least once every four years.

**Senate Amendments**

1) Repeals community reinvestment act provisions, including the establishment of a community reinvestment fund and all continuing and affirmative obligations defined covered financial institutions to meet community needs.

2) Retains the requirement for the DFPI to examine the books and records of any banks, certain credit unions, and California Residential Mortgage Lending Act licensee (collectively referred to as "financial entity") under the examination authority of the Department for compliance with applicable federal and state nondiscrimination laws.

3) Specifies the credit unions subject to the Act are those that meet at least one of the loan-volume thresholds listed in Section 1003.2(g)(1)(v) of Title 12 of the Code of Federal Regulations.

4) Specifies a list of potential nondiscrimination laws to be: law applicable to mortgage lending, including the federal Equal Credit Opportunity Act (15 U.S.C. Sec. 1691 et seq.), the federal Fair Housing Act (42 U.S.C. Sec. 3601 et seq.), the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), the Holden Act (Part 6 (commencing with Section 35800) of Division 24 of the Health and Safety Code), and the Unruh Civil Rights Act (Section 51 of the Civil Code).

5) Requires the DFPI to align examinations pursuant to this section with any other examinations under the purview of the DFPI and conduct efficiently and effectively.

6) Requires the DFPI to provide the financial entity with a written statement of findings of any exam conducted under this chapter to the subject financial entity, as well as take any steps to ensure correction of any violation of applicable nondiscrimination law including a discriminatory effect under the California Fair Employment and Housing that is not attributable to a legitimate business interest.

7) Clarifies that statements of examination findings are not public records and shall be treated as an examination report subject to the provisions of Section 14257 and other applicable law.

## COMMENTS

1) *Recent federal* Consumer Financial Protection Bureau (*CFPB) Rule*

On April 22, 2026, the CFPB issued a significant final rule (Rule) reshaping the agency's approach to fair lending enforcement under the Equal Credit Opportunity Act (ECOA) and Regulation B, effective July 21, 2026.[1] The Rule addresses "disparate impact" and "discouragement" liability and Special Purpose Credit Programs (SPCP).

While the objective of the ECOA remains to make "unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction (1) on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract); (2) because all or part of the applicant's income derives from any public assistance program; or (3) because the applicant has in good faith exercised any right under [the Consumer Credit Protection Act], the Rule more narrowly interprets current standards of harm or potential harm. Specifically, prior to the Rule, disparate-impact liability under the ECOA was an "effects-based test". Under a disparate-impact claim, a plaintiff may challenge as unlawful discrimination facially neutral policies that have a disproportionate effect along prohibited basis lines. The Supreme Court has noted that "[i]n contrast to a disparate-treatment case, . . . a plaintiff bringing a disparate-impact claim challenges practices that have a disproportionately adverse effect on minorities and are otherwise unjustified by a legitimate rationale.[2] These cases looked at legislative intent of nondiscrimination laws for employment, civil rights, and housing. In its final Rule, the CFPB determined that the best reading of the ECOA does not include effects-based language.[3]

Similarly, regarding "discouragement", Regulation B Section 1002.4(b) provides that, "[a] creditor shall not make any oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage on a prohibited basis a reasonable person from making or pursuing an application." In *CFPB v. Townstone Financial, Inc.*, the United States Court of Appeals for the Seventh Circuit accepted the CFPB's argument that Regulation B's discouragement provisions could reach prospective applicants who had not yet submitted a formal application for credit.[4] That holding relied heavily on the prior regulatory definition of "applicant" and the broader scope of discouragement embedded in former Regulation B. The CFPB's latest Rule has determined that the current interpretation is overly broad. The Rule addressed several different aspects of "discouragement" in Regulation B: (1) what constitutes an oral or written statement, (2) what constitutes a statement to an applicant or prospective applicant, and (3) the standard for showing prohibited discouragement.[5] Notably, the Rule states "[e]ncouraging statements are not intended to (or even likely to) discourage *other* applicants or prospective applicants, who did not receive the statements and might, in fact, have been entirely unaware of them, from applying for credit. Such conduct is not typically an evasion of ECOA's prohibitions, nor is prohibiting it necessary or proper to achieve the purposes of ECOA."[6] (Emphasis supplied.)

Said plainly, the Rule takes a literal interpretation of the ECOA and raises the bar for claims by requiring more concrete and demonstrable evidence of discouragement, focusing more heavily

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[1] 12 CFR Part 1002. [Docket No. CFPB-2025-0039] Consumer Financial Protection Bureau
[2] *Texas Dep't of Hous. & Cmty. Affairs* v. *Inclusive Cmtys. Project, Inc.,* 576 U.S. 519, 524 (2015).
[3] 12 CFR Part 1002. [Docket No. CFPB-2025-0039] Consumer Financial Protection Bureau. https://www.federalregister.gov/d/2026-07804/p-169. Last visited 8/18/2026
[4] *CFPB v. Townstone Financial, Inc*., 2024 WL 3370023 (7th Cir. July 11, 2024)
[5] https://www.federalregister.gov/d/2026-07804/p-334 Last visited 8/18/2026.
[6] *Id*.

on spoken or written words, including visual images, limiting reliance on speculative or attenuated inferences, and providing narrow specificity on what constitutes actionable conduct. Suffice to say, discrimination is often not conducted in a manner that is concrete and demonstrable.

*2) Limitations of the CFPB Rule*

The Supreme Court held that disparate impact claims remain cognizable under the Fair Housing Act (FHA).[7] Thus, FHA loans, broadly speaking--loans secured by residential real estate, are not subject to the ECOA Rule. The CFPB rule will most significantly affect unsecured consumer lending, consumer credit, auto financing, personal loans not secured by a personal real estate and certain small business or commercial purpose credit not tied to residential real estate. Additionally, state anti-discrimination laws are not altered by the Rule.

*3) What this bill does*

In response to the new narrow interpretation of the ECOA requirements and liability, this bill codifies--independent of federal laws-- the requirement for specified financial entities, to comply with antidiscrimination laws. Credit unions subject to the bill are those that meet at least one of the loan-volume thresholds listed in Home Mortgage Disclosure Act. This bill requires the DFPI to conduct an examination of these financial entities at least once every four years. This bill gives the DFPI discretion on method of examination, cooperation with any other applicable agencies, and schedule of examination. If the financial entity demonstrated full compliance with applicable nondiscrimination laws in the most recent examination, the DFPI may exempt the financial entity or examine it less frequently. The examinations mandated by this bill are designed to evaluate compliance with applicable mortgage lending nondiscrimination laws. Following an examination, the DFPI is required to issue a written statement of findings to the financial institution and take necessary measures to rectify any violations. This includes addressing discriminatory effects under the California Fair Employment and Housing Act that lack a legitimate business rationale. Furthermore, the legislation establishes that noncompliance with any governing nondiscrimination law constitutes a violation of the institution's licensing requirements.

*4) What the bill does not do*

The bill does not create a new antidiscrimination regime or new protected classes. The bill does not establish separate standards for violations of any of the applicable antidiscrimination laws. As a result, affected financial entities should not have to change their existing business practices other than being subject to the exam.

**According to the Author**
Homeownership is the primary vehicle for building family wealth in America, yet California's communities of color continue to face documented disparities in access to credit. Since 2015, Black and Latino borrowers have received conventional mortgage originations at roughly half the rate of white borrowers in California, and the Black-white homeownership gap today is approximately what it was before the Fair Housing Act passed in 1968. The California Task Force to Study and Develop Reparation Proposals for African Americans has called on this

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[7] *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015)

Legislature to take structural action addressing the continuing economic harm of housing discrimination, and I introduced this bill as part of that response. The need is more urgent now than ever: in April 2026, the Consumer Financial Protection Bureau (CFPB) finalized a rule eliminating disparate impact as a liability theory under the Equal Credit Opportunity Act (ECOA), the U.S. Department of Housing and Urban Development's (HUD) fair housing enforcement staff has been cut by 65%, and the U.S. Department of Justice (DOJ) has dropped pending redlining prosecutions. I believe California has both the authority and the responsibility to ensure that federal retreat does not become an excuse for diminished accountability here at home.

AB 801 would require the Department of Financial Protection and Innovation (DFPI) to examine covered mortgage lenders under its jurisdiction, state-chartered banks, credit unions, and independent mortgage companies, for compliance with fair lending laws, so that this recent federal retreat from fair lending enforcement does not translate into reduced accountability for California's lenders, particularly for communities of color who continue to face documented disparities in access to credit. This is a consumer protection bill that shows California's willingness to lead even when the federal government will not.

**Arguments in Support**

"Concerning the fiscal impact within the committee's analysis, DFPI estimates covering a majority of estimated costs through the Financial Protection Fund. While there is a small estimated cost for the general fund, these costs are minimal relative to the value of upholding fair lending, ensuring the costs of mortgage discrimination are not being passed on to California borrowers, and are otherwise necessary to ensure implementation of existing California statute.

*Additionally, the author's proposed amendments will reduce associated costs to the state by exempting small institutions and providing DFPI more discretion over examination cadence.*

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.

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." – Public Counsel

**Arguments in Opposition**
None received. Last checked 8/19/2026

## FISCAL COMMENTS

*The following is from the analysis of the Senate Committee on Appropriation, revised to reflect amendments on August 13, 2026.*

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.

## VOTES:

**ASM BANKING AND FINANCE: 5-1-3**

**YES:** Valencia, Fong, Krell, Schiavo, Soria
**NO:** Dixon
**ABS, ABST OR NV:** Chen, Michelle Rodriguez, Blanca Rubio

**ASM APPROPRIATIONS: 11-2-2**
**YES:** Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache
**NO:** Dixon, Tangipa
**ABS, ABST OR NV:** Sanchez, Ta

**ASSEMBLY FLOOR: 45-15-19**
**YES:** 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
**NO:** Alanis, Chen, Davies, DeMaio, Dixon, Ellis, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Macedo, Patterson, Sanchez, Tangipa, Wallis
**ABS, ABST OR NV:** 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

## UPDATED

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