

# AB 686 (Santiago)

## Affirmatively Furthering Fair Housing

### Bill Summary

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AB 686 reinforces California’s commitment to fair and equal housing by requiring public agencies to administer their programs in a manner that affirmatively furthers fair housing.

### Existing Law

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The federal Fair Housing Act (FHA) prohibits discrimination in the rental, sale, or financing of housing on the basis of race, color, national origin, religion, sex, family status, and/or disability (42 U.S.C. § 3601 *et seq.*). The FHA requires the U.S. Department of Housing and Urban Development (HUD), and other federal agencies, to administer their “programs and activities relating to housing and urban development...in a manner affirmatively to further” the purposes of the FHA (42 U.S.C. §3608(d), (e)(5))—known as the affirmatively furthering fair housing (AFFH) obligation. HUD passes on this affirmative duty to all states, local governments, and public housing authorities that receive HUD funding.

The California Fair Employment and Housing Act (FEHA) (Gov. Code § 12900 *et seq.*)—which serves, in part, as the state version of the federal FHA—similarly prohibits housing discrimination based upon “race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information” but does not explicitly include an AFFH obligation.

### Background

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Historically, the AFFH obligation—which requires active government efforts to dismantle segregation and create equal housing opportunities—was largely overlooked. As a result, public housing continued to be sited in low-income communities of color—which, when combined with a lack of investment in these communities—has reinforced longstanding patterns of segregation and poverty the FHA was meant to reverse.

In 2015, the Obama administration reinvigorated the AFFH obligation through a new Affirmatively Furthering Fair Housing regulation.<sup>1</sup> This rule requires certain HUD grantees to conduct an Assessment of Fair Housing—a planning process with community input. According to HUD, this will “help communities analyze challenges to fair housing choice and...address the fair housing barriers in their community.”

Unfortunately, the Trump Administration’s nominee for HUD Secretary, Ben Carson, has disparaged the AFFH obligation<sup>2</sup>, and members of Congress recently introduced legislation—H.R. 482 and S. 103—to nullify the rule.<sup>3</sup>

### Need for AB 686

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Given the threats to fair housing from both the Trump Administration and Congress, AB 686 reinforces California’s commitment to fair housing by amending FEHA to explicitly include a state AFFH obligation.

Actions taken under this bill to affirmatively further fair housing can help overcome patterns of segregation, promote fair housing choice, address environmental justice, foster inclusive communities free from barriers that restrict access to opportunities, and protect residents from displacement.

### Support

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National Housing Law Project (co-sponsor)  
Public Advocates (co-sponsor)  
Western Center on Law & Poverty (co-sponsor)

### Opposition

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None on file

### For More Information

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<sup>1</sup> <http://bit.ly/2kMPqOw>

<sup>2</sup> <http://bit.ly/2fRnvuJ>

<sup>3</sup> <http://bit.ly/2ldsYyE> and <http://bit.ly/211FJdv>