

Exemptions to the Fair Housing Act

The federal Fair Housing Act provides an exemption provides exemptions to the following types of housing situations:

- Religious organizations and nonprofit institutions associated with religious organizations. These groups are permitted to limit the sale, rental, and occupancy of dwellings they own and operate **for non-commercial reasons to persons of the same religion**. This exemption is only valid, however, if membership in the religion is not restricted on the basis of race, color or national origin.
- Private clubs which provide housing for other than commercial purposes as long as the provision of housing is “incident[al] to its primary purpose” 24 CFR 100.10(a)(2).
- Housing for older persons as defined under the act.
- Homes sold or rented by the owner without the services of the real estate agent, broker, or any person in the business of buying and selling real estate so long as the owner has no interest in the proceeds, has most recently lived in the property at issue, and owns no more than three single family homes. *Please contact the Fair Housing Enforcement Program for more details related to this exemption.*
- Transactions involving apartments located within private homes or buildings containing four or fewer living units in which the owner resides in one unit. (“Mrs. Murphy’s Exemption”)

***Prohibitions against the making of discriminatory statements **are not covered by the provisions for the “Mrs. Murphy” or single-family home exemption**. In other words, discriminatory advertising, statements, or notices related to real estate transactions, may be prohibited even where the underlying transaction is exempt.

Please Note: Although the situations listed above are exempt from the federal Fair Housing Act, there is no single-family home exemption or private club exemption under the state fair housing law. What this means is that if a housing provider falls under one of these exemptions under the federal law, they may still be in violation of state fair housing laws.

“Mrs. Murphy’s Exemption” Questions and Answers

Perhaps the most common exemption is the “Mrs. Murphy’s Exemption.” Here are some question and answer scenarios that may help to understand this exemption better.

Q: I am a property owner and I live in a home that I also rent out to five other families. I was told about a “Mrs. Murphy” exemption under the federal Fair Housing Act. Does the Mrs. Murphy exemption apply to my situation?

A: The Mrs. Murphy exemption applies to a property owner that lives in the dwelling and rents to four or less families living independently of each other. Since you are renting to five families in your dwelling, the Mrs. Murphy exemption would not apply to your situation.

Q: When does the Mrs. Murphy exemption apply and what does it exempt?

A: The Mrs. Murphy exemption exempts the application of many provisions under the Fair Housing Act to certain property owners. The Mrs. Murphy exemption applies to property owners that live in a dwelling with four or less families living independently of each other. If a tenant asserts their rights and claims a violation of the Fair Housing Act, a property owner may use this exemption as a defense.

Q: Are there situations where the Mrs. Murphy exemption does not apply?

A: Yes, the Mrs. Murphy exemption does not apply to any publication statements with respect to any preference, limitation, or discrimination based on any protected class. This means that property owners are not allowed to list any preference, limitation, or discrimination of a protected class in advertisements.