

FREQUENTLY ASKED QUESTIONS

Fair Housing Requirements for Real Estate Licensure

Q: How many states have fair housing licensure requirements?

A: Jurisdictions vary significantly in their requirements for fair housing education at various states of licensure.

Pre-Licensure:

- Twenty-five Jurisdictions (46%) mandate fair housing training for Brokers and Broker Supervisors at the pre-licensing stage.
- Twenty-seven Jurisdictions (50%) mandate fair housing training for Salespersons at the pre-licensing stage.
- Most Jurisdictions (44, or 81%) have no exemptions to fair housing training for Brokers at the pre-licensing stage.

Continuing Education:

- Seventeen Jurisdictions (31%) mandate fair housing training for Brokers and Broker Supervisors at the continuing education stage.
- Fifteen Jurisdictions (27%) mandate fair housing training for Salespersons at the continuing education stage.
- Twenty-six Jurisdictions (48%) do not allow for exemptions to fair housing training for Salespersons at the continuing education stage.

Q: How do I find out where my state lands in terms of fair housing licensure requirements?

A: The National Association of REALTORS® is also pleased to share our [Fair Housing Licensing Law Reporter](#). This project was conceived as part of NAR's ACT! fair housing initiative. ACT! stands for Accountability, Culture Change, and Training to advance fair housing in real estate. The Licensing Law Reporter is an interactive tool that allows state associations to take a closer look at their licensing law to see how it measures up against best practices in fair housing education and enforcement. State associations can also compare the fair housing provisions of their licensing law to that of other states.

For access to the Fair Housing Licensing Reporter to see how a specific state measures up, contact Melissa Horn at Mhorn@nar.realtor.

Q: On average, how many hours of fair housing education are required by states with policy in place?

A: Most states with policy in place require 1-4 hours of pre-license fair housing education. Other states require a general course on real estate law or make fair housing education an elective.

Q: In states with fair housing requirements for licensure, what is the process for enforcement?

A: Jurisdictions vary significantly with regard to their requirements for investigation and reporting of fair housing violations. No jurisdiction has fully enacted licensure regimes fully consistent with Best Practices in enforcement:

- Most jurisdictions (41, or 75%) specifically prohibit fair housing violations, as opposed to providing for a generalized prohibition of unethical conduct.
- Twenty-six Jurisdictions (48%) provide specific examples of violations to fair housing law.
- Thirty-one jurisdictions (31, or 57%) empower the licensing agency to investigate and discipline fair housing violations, without requiring another agency or court to find liability first.
- Twenty jurisdictions (37%) empower the licensing agency to conduct investigations without a triggering complaint.
- Four jurisdictions (7%) have requirements in licensure law ensuring communication between state licensing agencies and civil rights agencies regarding fair housing complaints, investigations, and outcomes.
- Seventeen jurisdictions (31%) statutorily require public reporting of individual licensees' fair housing violations, or provide annual statistics on disciplinary actions.

Q: Do state legislatures need to take this up to reform laws and mandate requirements or can real estate commissions or other entities navigate these changes to their education requirements without a law change?

A: Since NAR does not lobby on state or local policies directly, this would be a legislative change that state associations could pursue. For questions about navigating the political process in your state, contact your state association government affairs team.

Q: What groups aside from the REALTOR® State Associations support fair housing requirements in licensure?

A: So far, NAR has shared our work researching these policy changes with the National Association of Real Estate Commissioners and the Association of Real Estate License Law Officials (ARELLO). Both entities have been supportive.

Q: How many states have pending legislation on licensure reform currently?

A: Nationwide, professional licensure reform legislation is frequently proposed by states each legislative session. As of April 15, 2022, more than forty bills on licensure have been proposed across 41 states as well as the District of Columbia so far this year. While not all address fair housing requirements specifically, there is usually pretty consistent policy activity in addressing licensure in states each year.

Q: Does NAR offer fair housing education for its REALTORS®?

A: Yes, NAR launched a [Fair Housing Challenge](#) for all REALTORS® in 2021. This challenge is ongoing and includes three components.

1. [Fairhaven](#) is an online, immersive simulation that uses the power of storytelling that lets learners confront housing discrimination in scenarios that feel real. Learners in the fictional town of Fairhaven take the role of an agent, working against the clock to close deals. As learners interact with clients and colleagues, they confront different forms of discrimination and must decide how to react. The scenarios in Fairhaven are inspired by real fair housing cases, and by conversations held with NAR members.
2. [Implicit Bias Video](#) and Classroom Training: The online workshop and new classroom training helps REALTORS® understand how our unconscious brains categorize information, and offers practical tools to override hidden biases. The workshop offers many "de-biasing" practices that improve our relationships with all the people we encounter—being more responsive, growing our networks, and generating more business.
3. [At Home With Diversity®](#): As part of the challenge, you may also elect to participate in the At Home With Diversity® course and earn the certification. The At Home With Diversity® (AHWD) certification course covers how to work effectively with diverse populations so you can build business success in today's multicultural real estate market. Volunteer leaders and committee members can complete the At Home With Diversity® certification course by [viewing the recorded session](#).

Heirs Property or Tenancy-In-Common

Q: What does Heirs Property or Tenancy-In-Common mean?

A: If a property owner dies intestate (without a will), the real estate passes to the property owner's heirs as tenants-in-common under state law. Tenants-in-common are vulnerable because any one tenant can force a partition and/or force a sale. When this occurs, the parcel of property can be sold to an investor below fair market value which can impact a family's inherited wealth.

Q: What is the Uniform Partition of Heirs Property Act (UPHPA) and how many states have passed this legislation?

A: The UPHPA provides a series of simple due process protections: notice, appraisal, right of first refusal, and if the other co-tenants choose not to exercise their right and a sale is required, a commercially reasonable sale by a real estate broker, supervised by the court, to ensure all parties receive their fair share of the proceeds. The UPHPA was developed by a bipartisan group of experts appointed by state governments to the Uniform Law Commission.

19 states and the U.S. Virgin Islands have passed UPHPA.

Q: How do I find out where my state lands in terms of Heirs property law and any pending legislation?

A: As of April 15, 2022, 19 states and the U.S. Virgin Islands have enacted the UPHPA or something similar. 8 states and the District of Columbia have pending legislation. The Uniform Law Commission actively tracks policy activity on Heirs Property [here](#).

Q: What groups aside from the REALTOR® State Associations support the UPHPA or similar legislation?

A: The Land Loss Prevention Project, Center for Heirs Property Preservation, Black Family Land Trust, Legal Aid groups, American Bar Association, Uniform Law Commission, various State Farm Bureaus, American College of Real Estate Lawyers, Business Roundtable are among some of the organizations that have supported legislation.

Q: What has been the opposition to changing the law to address heirs property?

A: Property laws haven't changed substantially in a lot of areas of our country for some time, so the "this is how we've always done it" mentality is something supporters of changes often run into. Real estate lawyers and judges have their routine for handling these cases with more of a wide range of discretion in handling cases, so adoption of the UPHPA or similar changes how they may operate. Judges may have to consider economic and noneconomic conditions faced by tenants that they had not previously had to weigh. There's also some myth-busting to do as proposals are considered. For example, the adoption of the UPHPA does not prevent anybody from filing a partition action to seek an exit from the common ownership.

Q: Do state legislatures need to take this up to reform property laws?

A: Since NAR does not lobby on state or local policies directly, this would be a legislative change that state associations could pursue. For questions about navigating the political process in your state, contact your state association government affairs team.

Q: Legal processes can be arduous and expensive. Does NAR or other groups offer free or low-cost legal assistance for property owners facing challenges?

A: Many states offer legal aid services. Contact your state's Attorney General office for information on what is available to you.

NAR's Legal Action Committee also provides financial assistance to support litigation of significance to the Association, including matters relevant to the practice of real estate, the operation of real estate associations, ownership and use of real estate, and private property rights. Financial support provided by NAR to litigants must be used exclusively to pay the legal fees, costs, and expenses, incurred in connection with the litigation for which assistance is requested and provided. Learn more about NAR's Legal Action Committee [here](#).