

Civil  
Rights Act  
of 1866

## SUMMARY OF CIVIL RIGHTS ACTS OF 1866 and 1870

**[¶3141]** Section 1981(1870 Act) is a broad civil rights law. It provides that "all persons . . . have the same right . . . to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens . . ." It's generally used in housing litigation when there are no direct discriminatory practices involved **[¶3151]**.

**[¶3142]** On June 17, 1968, the United States Supreme Court, in *Jones v. Mayer*, 392 U.S. 409 [1 BOH 13,111], held that § 1982(1866 Act) "bars all racial discrimination, private as well as public in the sale or rental of property." In that case, the plaintiff, who was black, sued for injunctive and other relief, claiming that defendants refused to sell him a home solely on racial grounds. He relied in part on § 1982. The Eighth Circuit had held that § 1982 applied only to state action. The Supreme Court reversed, ruling that § 1982 prohibited both private and public racial discrimination in the sale or rental of property. It held further that the statute was a valid exercise of congressional power under the thirteenth amendment. This landmark decision gave new life to a law that had long been regarded as insignificant.

Section 1982 prohibits only discrimination against citizens based on race and color and can be enforced only by individuals in their own behalf. It applies to *all* housing; there are no exemptions, unlike the Fair Housing Act. Injunction is an available remedy and, although there are no provisions authorizing damages, courts have awarded compensatory and punitive damages as well as reasonable attorneys' fees as effective means of carrying out the purposes of the law.

**[¶3150]**

### CIVIL RIGHTS ACTS of 1866 and 1870 [U.S.C. Tit. 42, § 1981-1982]

**[¶3151]** § 1981. Equal rights under the law.—All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other. [Act May 31, 1870, Ch. 114, § 16, 16 Stat. 144.]

**[¶3152]** § 1982. Property rights of citizens.—All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property. [Act Apr. 9, 1866, Ch. 31, § 1, 14 Stat. 27.]