

# HOUSE BILL 1098

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By: **Delegate Niemann**

Introduced and read first time: February 7, 2014

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Housing Discrimination – Source of Income**

3 FOR the purpose of prohibiting a person from refusing to sell or rent a dwelling to any  
4 person because of source of income; prohibiting a person from discriminating  
5 against any person in the terms, conditions, or privileges of the sale or rental of  
6 a dwelling because of source of income; prohibiting a person from making,  
7 printing, or publishing certain types of materials with respect to the sale or  
8 rental of a dwelling that indicate a preference, limitation, or discrimination on  
9 the basis of source of income; prohibiting a person from falsely representing that  
10 a dwelling is not available for inspection, sale, or rental based on source of  
11 income; prohibiting a person from inducing or attempting to induce, for profit, a  
12 person to sell or rent a dwelling by making certain representations relating to  
13 the entry or prospective entry into the neighborhood of a person having a  
14 particular source of income; establishing a certain exception to provisions of law  
15 prohibiting discrimination in housing based on source of income; authorizing a  
16 housing development that meets certain criteria to apply for a certain  
17 exemption from certain prohibitions; requiring a housing coordination office  
18 that receives a certain application to evaluate and approve or disapprove the  
19 application within a certain period of time; authorizing the evaluation period to  
20 be extended under certain circumstances; establishing that certain prohibitions  
21 are not enforceable against an applicant while an application is pending;  
22 authorizing a housing coordination office to require a certain application to be  
23 renewed; authorizing an owner of a housing development to appeal the  
24 disapproval of an application to the Department of Housing and Community  
25 Development; establishing that certain prohibitions are not enforceable against  
26 an owner while an appeal is pending; establishing certain policies of the State;  
27 establishing that certain provisions of law do not affect certain local ordinances  
28 under certain circumstances; establishing that certain provisions of law do not  
29 require a dwelling to be made available to an individual under certain  
30 circumstances; establishing that certain provisions of law do not prohibit a  
31 person from verifying a potential buyer's or renter's source of income or amount

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 of income in a certain manner; providing for the construction of this Act;  
2 establishing that this Act is not intended to require or compel a landlord to rent  
3 to a certain tenant under certain circumstances; providing that this Act does not  
4 limit any rights or remedies that are otherwise available to a landlord or tenant  
5 under any other law; defining certain terms; and generally relating to  
6 prohibitions against discrimination in housing based on source of income.

7 BY repealing and reenacting, with amendments,  
8 Article – State Government  
9 Section 20–701, 20–702, 20–703, 20–704(a), and 20–705  
10 Annotated Code of Maryland  
11 (2009 Replacement Volume and 2013 Supplement)

12 BY adding to  
13 Article – State Government  
14 Section 20–705.1  
15 Annotated Code of Maryland  
16 (2009 Replacement Volume and 2013 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – State Government**

20 20–701.

21 (a) In this subtitle the following words have the meanings indicated.

22 (b) (1) “Disability” means:

23 (i) a physical or mental impairment that substantially limits  
24 one or more of an individual’s major life activities;

25 (ii) a record of having a physical or mental impairment that  
26 substantially limits one or more of an individual’s major life activities; or

27 (iii) being regarded as having a physical or mental impairment  
28 that substantially limits one or more of an individual’s major life activities.

29 (2) “Disability” does not include the current illegal use of or addiction  
30 to:

31 (i) a controlled dangerous substance, as defined in § 5–101 of  
32 the Criminal Law Article; or

33 (ii) a controlled substance, as defined in 21 U.S.C. § 802.

1 (c) “Discriminatory housing practice” means an act that is prohibited under §  
2 20–705, § 20–706, § 20–707, or § 20–708 of this subtitle.

3 (d) “Dwelling” means:

4 (1) any building, structure, or portion of a building or structure that is  
5 occupied, or designed or intended for occupancy, as a residence by one or more  
6 families; and

7 (2) any vacant land that is offered for sale or lease for the construction  
8 or location on the land of any building, structure, or portion of a building or structure  
9 described in item (1) of this subsection.

10 (e) (1) “Familial status” means the status of one or more minors who are  
11 domiciled with:

12 (i) a parent or other person having legal custody of the minor;  
13 or

14 (ii) the designee of a parent or other person having legal custody  
15 of the minor with the written permission of the parent or other person.

16 (2) “Familial status” includes the status of being:

17 (i) a pregnant woman; or

18 (ii) an individual who is in the process of securing legal custody  
19 of a minor.

20 (f) “Family” includes a single individual.

21 **(G) “HOUSING ASSISTANCE” MEANS:**

22 **(1) MONEY PAID DIRECTLY TO AN OWNER OR A SELLER BY A UNIT**  
23 **OF STATE OR LOCAL GOVERNMENT ON BEHALF OF AN INDIVIDUAL, INCLUDING**  
24 **RENTAL ASSISTANCE PROGRAM FUNDS, LOW-INCOME HOUSING ASSISTANCE**  
25 **CERTIFICATES, AND VOUCHERS ISSUED UNDER THE UNITED STATES HOUSING**  
26 **ACT OF 1937; OR**

27 **(2) ANY INCENTIVE PROVIDED BY AN OWNER TO VETERANS, FIRST**  
28 **RESPONDERS, TEACHERS, STUDENTS, OR SENIOR CITIZENS.**

29 **(H) “HOUSING COORDINATION OFFICE” MEANS THE UNIT OF STATE OR**  
30 **LOCAL GOVERNMENT THAT MANAGES ANY HOUSING ASSISTANCE PROGRAM IN A**  
31 **JURISDICTION, INCLUDING THE PROVISION OF LOW-INCOME HOUSING**

1 ASSISTANCE CERTIFICATES AND VOUCHERS ISSUED UNDER THE UNITED  
2 STATES HOUSING ASSISTANCE ACT OF 1937.

3 (I) (1) "HOUSING DEVELOPMENT" MEANS:

4 (I) A GROUP OF THREE OR MORE RELATED BUILDINGS  
5 THAT:

6 1. HAVE THE SAME OWNER OR THE SAME  
7 MANAGEMENT; AND

8 2. CONTAIN AT LEAST ONE DWELLING UNIT; OR

9 (II) ONE BUILDING CONTAINING FOUR OR MORE DWELLING  
10 UNITS THAT HAS THE SAME OWNER OR THE SAME MANAGEMENT FOR ALL OF  
11 THE DWELLING UNITS.

12 (2) "HOUSING DEVELOPMENT" INCLUDES:

13 (I) AN APARTMENT COMPLEX OR A TOWNHOUSE COMPLEX;

14 (II) AN APARTMENT, A CONDOMINIUM, OR A COOPERATIVE  
15 HOUSING CORPORATION BUILDING; AND

16 (III) A MOBILE HOME PARK.

17 [(g)] (J) "In the business of selling or renting dwellings" means:

18 (1) within the preceding 12 months, participating as a principal in  
19 three or more transactions involving the sale or rental of any dwelling or any interest  
20 in a dwelling;

21 (2) within the preceding 12 months, participating as an agent, other  
22 than in the sale of the individual's own personal residence, in providing sales or rental  
23 facilities or services in two or more transactions involving the sale or rental of any  
24 dwelling or any interest in a dwelling; or

25 (3) being the owner of any dwelling occupied, or designed or intended  
26 for occupancy, by five or more families.

27 [(h)] (K) "Marital status" means the state of being single, married,  
28 separated, divorced, or widowed.

1           **(L) (1) “OWNER” MEANS A PERSON WHO HOLDS, OWNS, OR**  
2 **CONTROLS ANY INTEREST IN REAL PROPERTY, WITH OR WITHOUT ACTUAL**  
3 **POSSESSION.**

4           **(2) “OWNER” INCLUDES AN AUTHORIZED AGENT OF THE OWNER,**  
5 **INCLUDING A PROPERTY MANAGER OR LEASING AGENT.**

6           **(3) “OWNER” DOES NOT INCLUDE A TRUSTEE OR BENEFICIARY**  
7 **UNDER A DEED OF TRUST OR MORTGAGE OR THE OWNER OF A REVERSIONARY**  
8 **INTEREST UNDER A GROUND LEASE.**

9           **[(i)] (M) “Rent” includes to lease, sublease, let, or otherwise grant for a**  
10 **consideration the right to occupy premises not owned by the occupant.**

11           **(N) (1) “SOURCE OF INCOME” MEANS ANY LAWFUL, VERIFIABLE**  
12 **SOURCE OF MONEY PAID TO A PERSON, INCLUDING:**

13                           **(I) A SALARY PAID FROM A LAWFUL JOB, A PROFESSION, OR**  
14 **AN OCCUPATION;**

15                           **(II) AN INHERITANCE, A PENSION, AN ANNUITY, ALIMONY,**  
16 **CHILD SUPPORT, OR ANY OTHER BENEFIT PAID DIRECTLY TO AN INDIVIDUAL;**  
17 **OR**

18                           **(III) HOUSING ASSISTANCE.**

19           **(2) “SOURCE OF INCOME” DOES NOT INCLUDE A GIFT, AN**  
20 **INTEREST IN PROPERTY, THE SALE OF OR PLEDGE OF PROPERTY, OR AN**  
21 **INTEREST IN PROPERTY.**

22 20-702.

23           **(a) It is the policy of the State:**

24                           **(1) to provide for fair housing throughout the State to all, regardless of**  
25 **race, color, religion, sex, familial status, national origin, marital status, sexual**  
26 **orientation, or disability; [and]**

27                           **(2) TO ENCOURAGE HOUSING OPPORTUNITIES THROUGHOUT THE**  
28 **STATE, REGARDLESS OF THE SOURCE OF A PERSON’S INCOME;**

29                           **(3) TO AVOID THE CONCENTRATION OF LOW-INCOME PERSONS IN**  
30 **ANY PARTICULAR LOCATION OR JURISDICTION OF THE STATE; AND**

1            ~~[(2)]~~ (4)        to that end, to prohibit discriminatory practices with respect  
2 to residential housing by any person, in order to protect and insure the peace, health,  
3 safety, prosperity, and general welfare of all.

4            (b)        This subtitle:

5            (1)        is an exercise of the police power of the State for the protection of  
6 the people of the State; and

7            (2)        shall be administered and enforced by the Commission and, as  
8 provided in this title, enforced by the appropriate State court.

9        20–703.

10           This subtitle does not:

11           (1)        invalidate or limit any local law that requires dwellings to be  
12 designed and constructed in a manner that affords an individual with a disability  
13 greater access than is required by § 20–706(b) of this subtitle;

14           (2)        limit the applicability of any reasonable local, State, or federal  
15 restrictions regarding the maximum number of occupants allowed to occupy a  
16 dwelling;

17           (3)        prohibit the State or a local government from enacting standards  
18 that govern the location of group homes, as defined in § 4–601 of the Housing and  
19 Community Development Article;

20           (4)        affect the powers of any local government to enact an ordinance on  
21 any subject covered by this subtitle, provided that the ordinance does not authorize  
22 any act that would be a discriminatory housing practice under this subtitle **OR**  
23 **PROHIBIT AN ACT EXPRESSLY AUTHORIZED BY THIS SUBTITLE;**

24           (5)        require that a dwelling be made available to an individual whose  
25 tenancy [would]:

26           (i)        **WOULD** constitute a direct threat to the health or safety of  
27 other individuals; [or]

28           **(II)        MAY REASONABLY BE BELIEVED TO CONSTITUTE A**  
29 **THREAT TO THE HEALTH OR SAFETY OF OTHERS BASED ON THE INDIVIDUAL’S**  
30 **PRIOR BEHAVIOR; OR**

31           ~~[(ii)]~~ **(III)        WOULD** result in substantial physical damage to the  
32 property of others;

1           (6) prohibit conduct against a person because the person has been  
2 convicted by a court of competent jurisdiction of the illegal manufacture or distribution  
3 of:

4                   (i) a controlled dangerous substance, as defined in § 5–101 of  
5 the Criminal Law Article; or

6                   (ii) a controlled substance, as defined in 21 U.S.C. § 802;

7           (7) unless membership in the religion is restricted on the basis of race,  
8 color, or national origin, prohibit a religious organization, association, or society or any  
9 nonprofit institution or organization operated, supervised, or controlled by or in  
10 conjunction with a religious organization, association, or society from giving preference  
11 or limiting the sale, rental, or occupancy of dwellings that it owns or operates for other  
12 than a commercial purpose to persons of the same religion; [or]

13           (8) prohibit a private club that is not open to the public and that, as an  
14 incident to its primary purpose or purposes, provides lodgings that it owns or operates  
15 for other than a commercial purpose, from limiting the rental or occupancy of the  
16 dwellings to its members or from giving preference to its members; **OR**

17           **(9) PROHIBIT A PERSON FROM VERIFYING A POTENTIAL BUYER’S**  
18 **OR RENTER’S SOURCE OF INCOME OR AMOUNT OF INCOME IN A COMMERCIALY**  
19 **REASONABLE MANNER, INCLUDING BY PERFORMING CREDIT, CRIMINAL, AND**  
20 **OTHER REFERENCE CHECKS.**

21 20–704.

22           (a) This subtitle does not apply to:

23                   (1) the sale or rental of a single–family dwelling, if the dwelling is sold  
24 or rented without:

25                           (i) the use of the sales or rental facilities or services of any:

26                                   1. real estate broker, agent, or salesperson;

27                                   2. agent of any real estate broker, agent, or salesperson;

28                                   3. person in the business of selling or renting dwellings;

29 or

30                                   4. agent of a person in the business of selling or renting  
31 dwellings; or

1 (ii) the publication, posting, or mailing, after notice, of any  
2 advertisement or written notice in violation of this subtitle; [and]

3 (2) with respect to discrimination on the basis of sex, sexual  
4 orientation, or marital status:

5 (i) the rental of rooms in any dwelling, if the owner maintains  
6 the dwelling as the owner's principal residence; or

7 (ii) the rental of any apartment in a dwelling that contains not  
8 more than five rental units, if the owner maintains the dwelling as the owner's  
9 principal residence; **AND**

10 **(3) WITH RESPECT TO DISCRIMINATION ON THE BASIS OF SOURCE**  
11 **OF INCOME IF THE SOURCE OF INCOME IS HOUSING ASSISTANCE, A HOUSING**  
12 **DEVELOPMENT THAT IS OWNED OR MANAGED BY A PERSON WHO OWNS OR**  
13 **MANAGES NO MORE THAN FIVE DWELLING UNITS.**

14 20-705.

15 Except as provided in §§ 20-703 [and], 20-704, **AND 20-705.1** of this subtitle,  
16 a person may not:

17 (1) refuse to sell or rent after the making of a bona fide offer, refuse to  
18 negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to  
19 any person because of race, color, religion, sex, disability, marital status, familial  
20 status, sexual orientation, **SOURCE OF INCOME**, or national origin;

21 (2) discriminate against any person in the terms, conditions, or  
22 privileges of the sale or rental of a dwelling, or in the provision of services or facilities  
23 in connection with the sale or rental of a dwelling, because of race, color, religion, sex,  
24 disability, marital status, familial status, sexual orientation, **SOURCE OF INCOME**, or  
25 national origin;

26 (3) make, print, or publish, or cause to be made, printed, or published,  
27 any notice, statement, or advertisement with respect to the sale or rental of a dwelling  
28 that indicates any preference, limitation, or discrimination based on race, color,  
29 religion, sex, disability, marital status, familial status, sexual orientation, **SOURCE OF**  
30 **INCOME**, or national origin, or an intention to make any preference, limitation, or  
31 discrimination;

32 (4) represent to any person, because of race, color, religion, sex,  
33 disability, marital status, familial status, sexual orientation, **SOURCE OF INCOME**, or  
34 national origin, that any dwelling is not available for inspection, sale, or rental when  
35 the dwelling is available; or

1           (5) for profit, induce or attempt to induce any person to sell or rent  
2 any dwelling by representations regarding the entry or prospective entry into the  
3 neighborhood of a person of a particular race, color, religion, sex, disability, marital  
4 status, familial status, sexual orientation, **SOURCE OF INCOME**, or national origin.

5 **20-705.1.**

6           **(A) THE PROHIBITIONS OF § 20-705 OF THIS SUBTITLE RELATING TO**  
7 **SOURCE OF INCOME DERIVED FROM HOUSING ASSISTANCE DO NOT APPLY TO A**  
8 **HOUSING DEVELOPMENT THAT APPLIES FOR AND IS GRANTED AN EXEMPTION**  
9 **UNDER SUBSECTION (B) OF THIS SECTION.**

10           **(B) (1) AN OWNER OF A HOUSING DEVELOPMENT MAY APPLY FOR AN**  
11 **EXEMPTION UNDER THIS SECTION TO THE HOUSING COORDINATION OFFICE IN**  
12 **THE JURISDICTION IN WHICH THE DEVELOPMENT IS LOCATED BY PROVIDING**  
13 **AN AFFIDAVIT MADE UNDER THE PENALTY OF PERJURY THAT THE HOUSING**  
14 **DEVELOPMENT MEETS AT LEAST ONE OF THE FOLLOWING CRITERIA ON OR**  
15 **BEFORE JANUARY 1 OF THE YEAR IN WHICH THE APPLICATION IS MADE:**

16                   **(I) 5% OR MORE OF THE UNITS IN THE HOUSING**  
17 **DEVELOPMENT ARE RENTED TO PERSONS WHOSE SOURCE OF INCOME IS**  
18 **DERIVED WHOLLY OR PARTLY FROM HOUSING ASSISTANCE;**

19                   **(II) 25% OR MORE OF THE RENTAL UNITS IN THE HOUSING**  
20 **DEVELOPMENT ARE RENTED AT OR BELOW 80% OF THE U.S. DEPARTMENT OF**  
21 **HOUSING AND URBAN DEVELOPMENT PAYMENT STANDARD APPLICABLE TO**  
22 **FAIR MARKET RENT IN THE HOUSING DEVELOPMENT'S LOCATION;**

23                   **(III) 5% OR MORE OF THE UNITS IN THE HOUSING**  
24 **DEVELOPMENT ARE OWNED BY OR ARE BEING RENTED THROUGH OR BY**  
25 **NOT-FOR-PROFIT ORGANIZATIONS THAT PROVIDE HOUSING TO PERSONS**  
26 **ELIGIBLE FOR HOUSING SUPPORT UNDER THE ORGANIZATION'S ELIGIBILITY**  
27 **GUIDELINES; OR**

28                   **(IV) THE HOUSING DEVELOPMENT IS SUBJECT TO HOUSING**  
29 **ASSISTANCE REQUIREMENTS UNDER A FEDERAL, STATE, OR LOCAL TAX CREDIT**  
30 **PROGRAM.**

31           **(2) (I) THE HOUSING COORDINATION OFFICE SHALL**  
32 **EVALUATE AND APPROVE OR DISAPPROVE AN APPLICATION MADE UNDER**  
33 **PARAGRAPH (1) OF THIS SUBSECTION WITHIN 30 DAYS AFTER THE APPLICATION**  
34 **IS MADE.**

1                   **(II) THE EVALUATION PERIOD REQUIRED UNDER**  
2 **SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE EXTENDED FOR AN**  
3 **ADDITIONAL 30 DAYS IF THE HOUSING COORDINATION OFFICE NEEDS**  
4 **ADDITIONAL INFORMATION TO EVALUATE THE APPLICATION.**

5                   **(3) WHILE AN APPLICATION IS PENDING, THE PROHIBITIONS**  
6 **UNDER § 20-705 OF THIS SUBTITLE RELATING TO SOURCE OF INCOME DERIVED**  
7 **FROM HOUSING ASSISTANCE ARE NOT ENFORCEABLE AGAINST THE OWNER OF**  
8 **THE HOUSING DEVELOPMENT FOR WHICH THE APPLICATION WAS MADE.**

9                   **(4) THE HOUSING COORDINATION OFFICE MAY REQUIRE THE**  
10 **OWNER OF THE HOUSING DEVELOPMENT TO RENEW ITS APPLICATION EVERY 3**  
11 **YEARS IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED UNDER THIS**  
12 **SECTION.**

13                   **(5) (I) IF AN APPLICATION IS DISAPPROVED, THE OWNER MAY**  
14 **APPEAL THE DECISION OF THE HOUSING COORDINATION OFFICE TO THE**  
15 **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.**

16                   **(II) WHILE AN APPEAL UNDER THIS PARAGRAPH IS**  
17 **PENDING, THE PROHIBITIONS UNDER § 20-705 OF THIS SUBTITLE RELATING TO**  
18 **SOURCE OF INCOME DERIVED FROM HOUSING ASSISTANCE ARE NOT**  
19 **ENFORCEABLE AGAINST THE OWNER OF THE HOUSING DEVELOPMENT FOR**  
20 **WHICH THE APPLICATION WAS MADE.**

21                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
22 construed to apply only prospectively and may not be applied or interpreted to have  
23 any effect on or application to any local law or ordinance enacted before the effective  
24 date of this Act.

25                   SECTION 3. AND BE IT FURTHER ENACTED, That this Act is not intended  
26 to require or compel a landlord to rent to a tenant who is receiving housing assistance  
27 from a housing coordination office if the housing coordination office does not meet its  
28 obligations with respect to the rental housing provider under any housing assistance  
29 program the housing coordination office manages.

30                   SECTION 4. AND BE IT FURTHER ENACTED, That this Act does not limit  
31 any rights or remedies that otherwise are available to a landlord or tenant under any  
32 other law.

33                   SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 October 1, 2014.