

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 366 (Delegate Lafferty)
Environmental Matters

HOME Act of 2014

This bill prohibits discriminatory practices in the sale or rental of a dwelling because of a person's source of income. By December 31, 2018, the Department of Housing and Community Development (DHCD) must evaluate the effectiveness of the bill's provisions in achieving its goals and submit a report on its findings and recommendations to the Governor and the General Assembly.

The bill terminates September 30, 2019.

Fiscal Summary

State Effect: Any additional workload for DHCD, the Maryland Commission on Civil Rights (MCCR), the Judiciary, or the Office of the Attorney General can be handled with existing budgeted resources. Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Potential minimal increase in expenditures due to the bill's criminal penalty provisions. Revenues are not likely affected, as most of the additional criminal cases resulting from the bill fall under the jurisdiction of the District Court. Any potential expenditures for local housing agencies to prepare the required annual reports and publish the information on the website are assumed to be minimal.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill prohibits taking the following actions because of a person's source of income: (1) refusing to sell or rent a dwelling after the making of a bona fide offer; (2) refusing to negotiate for the sale or rental of a dwelling; (3) making a dwelling otherwise unavailable; (4) discriminating in the terms, conditions, or privileges of sale or rental of a dwelling; (5) discriminating in the provision of services or facilities in connection with the sale or rental of a dwelling; (6) making, printing, or publishing or causing to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination based on source of income; (7) representing to a person that a dwelling is not available for inspection, sale, or rental when it is available; and (8) for profit, inducing or attempting to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons with a particular source of income.

Under the bill, a "source of income" is any lawful source of money paid directly or indirectly to or on behalf of a renter or buyer of housing, including income from (1) any lawful profession, occupation, or job; (2) any government or private assistance, grant, loan, or rental assistance program, including low-income housing assistance certificates and vouchers; (3) any gift, inheritance, pension, annuity, alimony, child support, or other consideration or benefit; and (4) any sale or pledge of property or an interest in property.

The bill does not apply to the rental of rooms or apartments in an owner's principal residence if the source of income is rental assistance. The exemption for apartments is limited to an owner-occupied dwelling with up to five rental units.

The bill does not apply to the rental of a unit in an assisted rental housing development if the source of income is rental assistance. Under the bill, "assisted rental housing development" means a development consisting of four or more contiguous rental units in which 20% or more of the units are required to be rented to households with an income that does not exceed 50% of the area media income under a federal, State, or local government housing assistance program.

The bill prohibits a person whose business includes engaging in residential real estate related transactions from discriminating against a person in making available a transaction, or in the terms or conditions of a transaction, because of the person's source of income. However, a real estate appraiser may take into consideration factors other than source of income.

The bill prohibits a person from, because of a person's source of income, denying that person access to, or membership or participation in, a multiple-listing service, real estate

brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminating against a person in the terms or conditions of membership or participation.

The bill also prohibits any person, whether or not acting under color of law, by force or threat of force, from willfully injuring, intimidating, or interfering with a person's activities related to the sale, purchase, rental, or occupation of a dwelling, or to attempt to do so. Existing criminal penalties relating to these activities are expanded to include the prohibition against discrimination based on source of income.

The bill neither prevents a person from refusing to consider income derived from any criminal activity nor prohibits a person from determining the ability of a potential buyer or renter to pay by verifying, in a commercially reasonable and nondiscriminatory manner, the source and amount of income of the potential buyer or renter.

By October 1, 2014, and each year thereafter, each "affected public housing agency" must:

- for each zip code in the jurisdiction of the agency, calculate the percentage of all occupied housing units in the zip code that are occupied by individuals using housing choice vouchers;
- for the entire jurisdiction of the affected agency, calculate the percentage of all occupied housing units that are occupied by individuals using housing choice vouchers;
- develop a list of zip codes for which the percentage calculated under item (1) is equal to at least two times the percentage calculated under item (2); and
- publish the list of zip codes developed under item (3) on the website of the affected agency.

An "affected public housing agency" is a State or local government unit that administers the federal Housing Choice Voucher Program. A "Housing Choice Voucher" is a low-income housing assistance certificate or voucher issued by an affected public housing agency.

Current Law: Housing discrimination because of race, sex, color, religion, national origin, marital status, familial status, sexual orientation, or disability is prohibited. There is no provision prohibiting housing discrimination based on source of income. Willfully injuring, intimidating, or interfering, by force or threat of force, with a person's activities

related to the sale, purchase, rental, or occupation of a dwelling, or to attempt to do so, is a misdemeanor. A violator is subject to maximum penalties of one year imprisonment and/or a \$1,000 fine. If the violation results in bodily injury, the maximum penalty is 10 years imprisonment and/or a \$10,000 fine. If the violation results in death, the maximum penalty is life imprisonment.

A person claiming to have been injured by a discriminatory housing practice may file a complaint with MCCR or file a civil action in circuit court. If an administrative law judge (ALJ) finds that the respondent has engaged in a discriminatory housing practice, the ALJ may order appropriate relief, including actual damages and injunctive or other relief, and may assess a civil penalty against the respondent. A court may award actual or punitive damages, grant injunctive relief, and allow reasonable attorney's fees and costs.

Background: MCCR received 89 complaints of housing discrimination in fiscal 2013.

State Revenues: General fund revenues may increase minimally as a result of the bill's monetary penalty provision from criminal cases heard in the District Court or from additional civil penalties assessed.

State Expenditures: General fund expenditures may increase minimally as a result of the bill's incarceration penalty due to the possibility of more people being committed to State correctional facilities for convictions in Baltimore City. The number of people convicted under the bill's provisions who are likely to be subject to incarceration is not expected to materially affect the expenditures of the Department of Public Safety and Correctional Services (DPSCS).

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Enhanced penalties of life imprisonment and a \$10,000 fine and/or 10 years imprisonment are provided if specified violations result in death or bodily injury, respectively. However, it is assumed that only a minimal number of people will potentially be subject to these enhanced penalties. Accordingly, DPSCS expenditures are not materially impacted as a result of people being sentenced to State correctional facilities for longer periods of time under the enhanced penalty provisions.

DHCD can prepare the required reports using existing budgeted resources.

Local Revenues: Although enhanced penalties of life imprisonment and a \$10,000 fine and/or 10 years imprisonment are provided if specified violations result in death or bodily injury, respectively, it is assumed that the potential number of people subject to these

enhanced penalties does not materially impact the revenues of the circuit courts, as most of the cases fall under the jurisdiction of the District Court.

Local Expenditures: Expenditures may increase minimally as a result of the bill's incarceration penalty. It is expected, however, that those subject to incarceration under the bill's provisions are not likely to materially affect local government expenditures.

Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: SB 487 of 2013, a substantially similar bill as amended by the Senate Judicial Proceedings Committee, was recommitted to the committee. Its cross file, HB 603, received a hearing in the House Environmental Matters Committee, but no further action was taken. HB 168 of 2012, a similar bill, received a hearing in the House Environmental Matters Committee, but was subsequently withdrawn. Its cross file, SB 277, received a hearing in the Senate Judicial Proceedings Committee, but was subsequently withdrawn. HB 902 of 2011 received an unfavorable report from the House Environmental Matters Committee. Its cross file, SB 643, received a hearing in the Senate Judicial Committee, but no further action was taken. SB 243 of 2010 received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Department of Housing and Community Development, Maryland Commission on Civil Rights, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2014
ncs/kdm

Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510