

HOUSE BILL 366

D5, N1
SB 487/13 – JPR

4lr1441

By: **Delegate Lafferty**

Introduced and read first time: January 23, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

AN ACT concerning

HOME Act of 2014

FOR the purpose of expanding the housing policy of the State to include providing for fair housing to all citizens regardless of source of income; prohibiting a person from refusing to sell or rent a dwelling to any person because of source of income; establishing certain qualifications and limitations on the general prohibition against discrimination in housing based on source of income; prohibiting a person from discriminating against any person in the terms, conditions, or privileges of the sale or rental of a dwelling because of source of income; prohibiting a person from making, printing, or publishing certain types of materials with respect to the sale or rental of a dwelling that indicate a preference, limitation, or discrimination on the basis of source of income; prohibiting a person from falsely representing that a dwelling is not available for inspection, sale, or rental based on source of income; prohibiting a person from inducing or attempting to induce, for profit, a person to sell or rent a dwelling by making certain representations relating to the entry or prospective entry into the neighborhood of a person having a particular source of income; prohibiting a person whose business includes engaging in residential real estate transactions from discriminating against any person in making available a transaction or in the terms or conditions of a transaction because of source of income; prohibiting a person from denying a person, based on source of income, access to, or membership or participation in, a service, an organization, or a facility relating to the business of selling or renting dwellings, or discriminating against a person in the terms or conditions of membership or participation; prohibiting a person from, by force or threat of force, willfully injuring, intimidating, or interfering with any person because of source of income and because the person is negotiating for the sale or rental of any dwelling or participating in any service relating to the business of selling or renting dwellings; providing that certain provisions concerning source of income do not apply to certain housing; requiring a certain public housing agency on or before a certain date each year to develop and publish on the Web site of the public

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



housing agency certain information relating to the percentage of certain housing units that are occupied by individuals using certain vouchers; providing that this Act does not limit the rights or remedies that are otherwise available to a landlord or tenant under any other law; defining certain terms; requiring the Department of Housing and Community Development to evaluate the effectiveness of this Act in achieving its goals and to submit a report on the findings and recommendations of the Department to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to prohibitions against discrimination in housing based on source of income.

BY repealing and reenacting, with amendments,

Article – State Government

Section 20–701, 20–702, 20–704, 20–705, 20–707, and 20–1103

Annotated Code of Maryland

(2009 Replacement Volume and 2013 Supplement)

Preamble

WHEREAS, The General Assembly recognizes that equality, fairness, and opportunity for Maryland residents often require government action and that security, mobility, and economic opportunity are enhanced by the location of a person’s home; and

WHEREAS, Discrimination in housing based on a person’s source of income primarily affects persons that the General Assembly has already determined to need legal protection from discrimination such as families with children, people of color, and people with disabilities; and

WHEREAS, Eleven states – Connecticut, Maine, Massachusetts, Minnesota, New Jersey, North Dakota, Oklahoma, Oregon, Utah, Vermont, and Wisconsin – and the District of Columbia and over 30 localities across the country have laws prohibiting discrimination based on a person’s source of income; and

WHEREAS, This Act will not prevent private landlords from considering relevant, nondiscriminatory factors in screening rental applicants, including an applicant’s ability to comply with lease terms and prior tenancy history; and

WHEREAS, This Act seeks to deconcentrate poverty by providing additional opportunities for tenants utilizing public subsidies to live in neighborhoods other than the neighborhoods in which those individuals are currently and disproportionately residing; now, therefore,

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

Article – State Government

20–701.

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

(b) (1) “Disability” means:

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

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

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

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

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

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

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

(d) “Dwelling” means:

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

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

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

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

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

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

(i) a pregnant woman; or

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

(f) “Family” includes a single individual.

(g) “In the business of selling or renting dwellings” means:

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

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

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

(h) “Marital status” means the state of being single, married, separated, divorced, or widowed.

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

(J) (1) “SOURCE OF INCOME” MEANS ANY LAWFUL SOURCE OF MONEY PAID DIRECTLY OR INDIRECTLY TO, OR ON BEHALF OF, A RENTER OR BUYER OF HOUSING.

(2) “SOURCE OF INCOME” INCLUDES INCOME FROM:

(I) A LAWFUL PROFESSION, OCCUPATION, OR JOB;

(II) ANY GOVERNMENT OR PRIVATE ASSISTANCE, GRANT, LOAN, OR RENTAL ASSISTANCE PROGRAM, INCLUDING LOW-INCOME HOUSING ASSISTANCE CERTIFICATES AND VOUCHERS ISSUED UNDER THE UNITED STATES HOUSING ACT OF 1937;

(III) A GIFT, AN INHERITANCE, A PENSION, AN ANNUITY, ALIMONY, CHILD SUPPORT, OR OTHER CONSIDERATION OR BENEFIT; OR

(IV) THE SALE OR PLEDGE OF PROPERTY OR AN INTEREST IN PROPERTY.

20-702.

(a) It is the policy of the State:

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

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

(b) This subtitle:

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

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

20-704.

(a) This subtitle does not apply to:

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

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

1. real estate broker, agent, or salesperson;

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

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

or

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

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

(2) with respect to discrimination on the basis of sex, sexual orientation, [or] marital status, **OR SOURCE OF INCOME IF THE SOURCE OF INCOME IS RENTAL ASSISTANCE:**

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

(ii) the rental of any apartment in a dwelling that contains not more than five rental units, if the owner maintains the dwelling as the owner's principal residence.

(b) The use of attorneys, escrow agents, abstractors, title companies, and other similar professional assistance as necessary to perfect or transfer the title to a single-family dwelling does not subject a person to this subtitle if the person otherwise would be exempted under subsection (a) of this section.

(c) (1) (i) In this subsection, "housing for older persons" means housing:

1. provided under any State or federal program that is specifically designed and operated to assist elderly persons, as defined in the State or federal program;

2. intended for, and solely occupied by, persons who are at least 62 years old;

3. intended and operated for occupancy by at least one person who is at least 55 years old in each unit; or

4. that meets the requirements set forth in regulations adopted by the Secretary of Housing and Urban Development under 42 U.S.C. § 3607(b)(2)(C).

(ii) "Housing for older persons" includes:

1. unoccupied units, if the units are reserved for occupancy by persons who meet the age requirements of subparagraph (i) of this paragraph; or

2. units occupied as of September 13, 1988 by persons who do not meet the age requirements of subparagraph (i) of this paragraph, if the new occupant of the unit meets the age requirement.

(2) The provisions in this subtitle concerning familial status do not apply to housing for older persons.

(D) (1) IN THIS SUBSECTION, “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 MEDIAN INCOME UNDER A FEDERAL, STATE, OR LOCAL GOVERNMENT HOUSING ASSISTANCE PROGRAM.

(2) THE PROVISIONS OF THIS SUBTITLE CONCERNING DISCRIMINATION ON THE BASIS OF SOURCE OF INCOME DO NOT APPLY TO THE RENTAL OF A UNIT IN AN ASSISTED RENTAL HOUSING DEVELOPMENT IF THE SOURCE OF INCOME IS RENTAL ASSISTANCE.

(E) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “AFFECTED PUBLIC HOUSING AGENCY” MEANS A STATE OR LOCAL GOVERNMENT UNIT THAT ADMINISTERS THE FEDERAL HOUSING CHOICE VOUCHER PROGRAM UNDER THE UNITED STATES HOUSING ACT OF 1937.

(III) “HOUSING CHOICE VOUCHER” MEANS A LOW-INCOME HOUSING ASSISTANCE CERTIFICATE OR VOUCHER ISSUED BY AN AFFECTED PUBLIC HOUSING AGENCY.

(2) ON OR BEFORE OCTOBER 1, 2014, AND EACH YEAR THEREAFTER, EACH AFFECTED PUBLIC HOUSING AGENCY SHALL:

(I) FOR EACH ZIP CODE IN THE JURISDICTION OF THE AFFECTED PUBLIC HOUSING AGENCY, CALCULATE THE PERCENTAGE OF ALL OCCUPIED HOUSING UNITS IN THE ZIP CODE THAT ARE OCCUPIED BY INDIVIDUALS USING HOUSING CHOICE VOUCHERS;

(II) FOR THE ENTIRE JURISDICTION OF THE AFFECTED PUBLIC HOUSING AGENCY, CALCULATE THE PERCENTAGE OF ALL OCCUPIED HOUSING UNITS THAT ARE OCCUPIED BY INDIVIDUALS USING HOUSING CHOICE VOUCHERS;

(III) DEVELOP A LIST OF ZIP CODES FOR WHICH THE PERCENTAGE CALCULATED UNDER ITEM (I) OF THIS PARAGRAPH IS EQUAL TO AT LEAST TWO TIMES THE PERCENTAGE CALCULATED UNDER ITEM (II) OF THIS PARAGRAPH; AND

(IV) PUBLISH THE LIST OF ZIP CODES DEVELOPED UNDER ITEM (III) OF THIS PARAGRAPH ON THE WEB SITE OF THE AFFECTED PUBLIC HOUSING AGENCY.

(F) THE PROHIBITIONS IN THIS SUBTITLE AGAINST DISCRIMINATION BASED ON SOURCE OF INCOME DO NOT:

(1) PROHIBIT A PERSON FROM DETERMINING THE ABILITY OF A POTENTIAL BUYER OR RENTER TO PAY A PURCHASE PRICE OR TO PAY RENT BY VERIFYING IN A COMMERCIALY REASONABLE AND NONDISCRIMINATORY MANNER THE SOURCE AND AMOUNT OF INCOME OF THE POTENTIAL BUYER OR RENTER; OR

(2) PREVENT A PERSON FROM REFUSING TO CONSIDER INCOME DERIVED FROM ANY CRIMINAL ACTIVITY.

20-705.

Except as provided in §§ 20-703 and 20-704 of this subtitle, a person may not:

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

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

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

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

(5) for profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the

neighborhood of a person of a particular race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF INCOME**.

20-707.

(a) In this section, “residential real estate–related transaction” means:

(1) the making or purchasing of loans or providing other financial assistance:

(i) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(ii) secured by residential real estate; or

(2) the selling, brokering, or appraising of residential real property.

(b) (1) A person whose business includes engaging in residential real estate–related transactions may not discriminate against any person in making available a transaction, or in the terms or conditions of a transaction, because of race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF INCOME**.

(2) Paragraph (1) of this subsection does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF INCOME**.

(c) A person may not, because of race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF INCOME**:

(1) deny a 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

(2) discriminate against a person in the terms or conditions of membership or participation.

20-1103.

(a) In this section, “disability”, “dwelling”, “familial status”, “marital status”, [and] “rent”, **AND “SOURCE OF INCOME”** have the meanings stated in § 20-701 of this title.

(b) Whether or not acting under color of law, a person may not, by force or threat of force, willfully injure, intimidate, interfere with, or attempt to injure, intimidate, or interfere with:

(1) any person because of race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF INCOME** and because the person is or has been:

(i) selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling; or

(ii) applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings;

(2) any person because the person is or has been, or in order to intimidate the person or any other person or any class of persons from:

(i) participating, without discrimination on account of race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF INCOME**, in any of the activities, services, organizations, or facilities described in item (1) of this subsection; or

(ii) affording another person or class of persons the opportunity or protection to participate in any of the activities, services, organizations, or facilities described in item (1) of this subsection; or

(3) any person because the person is or has been, or in order to discourage the person or any other person from:

(i) lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, marital status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF INCOME**, in any of the activities, services, organizations, or facilities described in item (1) of this subsection; or

(ii) participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate in any of the activities, services, organizations, or facilities described in item (1) of this subsection.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both;

(2) if the violation results in bodily injury, imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both; or

(3) if the violation results in death, imprisonment not exceeding life.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not limit the rights or remedies that otherwise are available to a landlord or tenant under any other law.

SECTION 3. AND BE IT FURTHER ENACTED, That on or before December 31, 2018, the Department of Housing and Community Development shall evaluate the effectiveness of this Act in achieving its goals and submit a report on the findings and recommendations of the Department to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014. It shall remain effective for a period of 5 years and, at the end of September 30, 2019, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.