

HOUSE BILL 1098

D5, N1

4lr3019

By: **Delegate Niemann**

Introduced and read first time: February 7, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

AN ACT concerning

Housing Discrimination – Source of Income

FOR the purpose of prohibiting a person from refusing to sell or rent a dwelling to any person because of 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; establishing a certain exception to provisions of law prohibiting discrimination in housing based on source of income; authorizing a housing development that meets certain criteria to apply for a certain exemption from certain prohibitions; requiring a housing coordination office that receives a certain application to evaluate and approve or disapprove the application within a certain period of time; authorizing the evaluation period to be extended under certain circumstances; establishing that certain prohibitions are not enforceable against an applicant while an application is pending; authorizing a housing coordination office to require a certain application to be renewed; authorizing an owner of a housing development to appeal the disapproval of an application to the Department of Housing and Community Development; establishing that certain prohibitions are not enforceable against an owner while an appeal is pending; establishing certain policies of the State; establishing that certain provisions of law do not affect certain local ordinances under certain circumstances; establishing that certain provisions of law do not require a dwelling to be made available to an individual under certain circumstances; establishing that certain provisions of law do not prohibit a person from verifying a potential buyer's or renter's source of income or amount

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



of income in a certain manner; providing for the construction of this Act; establishing that this Act is not intended to require or compel a landlord to rent to a certain tenant under certain circumstances; providing that this Act does not limit any rights or remedies that are otherwise available to a landlord or tenant under any other law; defining certain terms; 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, 20–703, 20–704(a), and 20–705
 Annotated Code of Maryland
 (2009 Replacement Volume and 2013 Supplement)

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

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) “HOUSING ASSISTANCE” MEANS:

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

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

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

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

(I) (1) “HOUSING DEVELOPMENT” MEANS:

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

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

2. CONTAIN AT LEAST ONE DWELLING UNIT; OR

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

(2) “HOUSING DEVELOPMENT” INCLUDES:

(I) AN APARTMENT COMPLEX OR A TOWNHOUSE COMPLEX;

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

(III) A MOBILE HOME PARK.

[(g)] (J) “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)] (K) “Marital status” means the state of being single, married, separated, divorced, or widowed.

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

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

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

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

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

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

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

(III) HOUSING ASSISTANCE.

(2) “SOURCE OF INCOME” DOES NOT INCLUDE A GIFT, AN INTEREST IN PROPERTY, THE SALE OF 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; [and]

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

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

~~[(2)] (4)~~ 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.

20–703.

This subtitle does not:

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

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

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

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

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

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

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

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

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

(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;

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

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

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

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:

(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; **AND**

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

20-705.

Except as provided in §§ 20-703 [and], 20-704, **AND 20-705.1** 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, **SOURCE OF INCOME**, or national origin;

(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, **SOURCE OF INCOME**, or national origin;

(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, **SOURCE OF INCOME**, or national origin, 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, **SOURCE OF INCOME**, or national origin, 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, **SOURCE OF INCOME**, or national origin.

20-705.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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