

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 938 (Delegate Impallaria)  
Environment and Transportation

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Federal Fair Housing Laws – Enforcement by State and Local Governments

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This bill requires an official of State government who has knowledge of a violation of the federal Fair Housing Act (FHA) taking place in Maryland to provide notice to the Department of Housing and Community Development (DHCD) of the violation. If an official of a political subdivision has knowledge of a violation of FHA taking place within the jurisdiction, the subdivision must (1) take appropriate action to enforce the federal law and (2) provide notice to DHCD of the violation and any enforcement action taken by the subdivision. DHCD must initiate an enforcement action or supervise the enforcement action depending on the type of violation.

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Fiscal Summary

**State Effect:** General fund expenditures increase, likely significantly, beginning in FY 2019, as discussed below. Revenues are not affected.

**Local Effect:** Local government expenditures increase, potentially significantly, beginning in FY 2019, as discussed below. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Minimal.

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Analysis

**Current Law/Background:** According to the U.S. Department of Justice (DOJ), [FHA](#) (42 U.S.C. 3601 *et seq.*) prohibits discrimination by direct providers of housing, such as landlords and real estate companies, as well as other entities, such as municipalities, banks

or other lending institutions, and homeowner insurance companies whose discriminatory practices make housing unavailable to persons because of:

- race or color;
- religion;
- sex;
- national origin;
- familial status; or
- disability.

In cases involving discrimination in mortgage loans or home improvement loans, DOJ may file suit under both FHA and the pattern or practice of discrimination or where a denial of rights to a group of persons raises an issue of general public importance.

Where force or threat of force is used to deny or interfere with fair housing rights, DOJ may institute criminal proceedings. FHA also provides procedures for handling individual complaints of discrimination. Individuals who believe that they have been victims of an illegal housing practice may file a complaint with the Department of Housing and Urban Development (HUD) or file their own lawsuit in federal or state court. DOJ brings suits on behalf of individuals based on referrals from HUD.

**State Expenditures:** As enforcement of FHA is a federal responsibility, DHCD advises that it does not currently have other programs or units with comparable investigatory or enforcement authority; implementing the bill likely requires several new staff to oversee the bill's requirements. The exact impact to DHCD cannot be reliably estimated at this time because DHCD does not know how many complaints it will receive, but the department advises that costs could be significant and require at least an administrator, an attorney, and several investigators and enforcement officers.

**Local Expenditures:** The bill also requires political subdivisions to investigate FHA violations and take appropriate action to enforce the law, in addition to reporting violations to DHCD. While some local governments may already have the personnel to implement these requirements, other jurisdictions may not. For those jurisdictions, personnel costs could increase significantly under the bill, although it is unclear how many jurisdictions in the State are affected.

**Additional Comment:** The Maryland Commission on Civil Rights (MCCR) advises that it is charged by § 20-702 of the State Government Article with enforcement of Maryland's fair housing law. Maryland and federal law are substantially equivalent. Because of this equivalency, HUD transfers allegations of federal FHA violations originating in Maryland

for investigation and case processing to MCCR. MCCR and HUD have a contractual work-sharing agreement where State and federal law overlap.

MCCR is further concerned that the bill would require the agency to breach its confidentiality law in § 20-1101. If MCCR is required to report violations of FHA it receives to DHCD, that breach could jeopardize MCCR's contractual relationship with HUD, thereby jeopardizing federal funding.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** U.S. Department of Justice; Maryland Commission on Civil Rights; cities of Bowie and Takoma Park; Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Department of Legislative Services

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