

SENATE BILL 812

D5, N1
SB 728/17 – JPR

9lr1575
CF HB 451

By: **Senators Smith, Carter, Hayes, Kagan, Lee, and Washington**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Fair Housing Opportunities Act of 2019**

3 FOR the purpose of expanding the housing policy of the State to include providing for fair
4 housing to all citizens regardless of source of income; prohibiting a person from
5 refusing to sell or rent a dwelling to any person because of source of income;
6 establishing certain qualifications and limitations on the general prohibition against
7 discrimination in housing based on source of income; prohibiting a person from
8 discriminating against any person in the terms, conditions, or privileges of the sale
9 or rental of a dwelling because of source of income; prohibiting a person from making,
10 printing, or publishing certain types of materials with respect to the sale or rental of
11 a dwelling that indicate a preference, limitation, or discrimination on the basis of
12 source of income; prohibiting a person from falsely representing that a dwelling is
13 not available for inspection, sale, or rental based on source of income; prohibiting a
14 person from inducing or attempting to induce, for profit, a person to sell or rent a
15 dwelling by making certain representations relating to the entry or prospective entry
16 into the neighborhood of a person having a particular source of income; prohibiting
17 a person whose business includes engaging in residential real estate transactions
18 from discriminating against any person in making available a transaction, or in the
19 terms or conditions of a transaction, because of source of income; prohibiting a person
20 from denying a person, based on source of income, access to or membership or
21 participation in a service, an organization, or a facility relating to the business of
22 selling or renting dwellings or from discriminating against a person in the terms or
23 conditions of membership or participation; prohibiting a person from, by force or
24 threat of force, willfully injuring, intimidating, or interfering with any person
25 because of source of income and because the person is negotiating for the sale or
26 rental of any dwelling or participating in any service relating to the business of
27 selling or renting dwellings; defining a certain term; providing that this Act does not
28 limit the rights or remedies that are otherwise available to a landlord or tenant
29 under any other law; and generally relating to prohibitions against discrimination
30 in housing based on source of income.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – State Government
3 Section 20–701, 20–702, 20–704, 20–705, 20–707, and 20–1103
4 Annotated Code of Maryland
5 (2014 Replacement Volume and 2018 Supplement)

6 Preamble

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

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

14 WHEREAS, Thirteen states, including California, Connecticut, Maine,
15 Massachusetts, Minnesota, New Jersey, North Dakota, Oklahoma, Oregon, Utah, Vermont,
16 Washington, and Wisconsin, the District of Columbia, and more than 50 localities across
17 the country have laws prohibiting discrimination based on a person’s source of income; and

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

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

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

27 **Article – State Government**

28 20–701.

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

30 (b) (1) “Disability” means:

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

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

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

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

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

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

7 (c) "Discriminatory housing practice" means an act that is prohibited under §
8 20–705, § 20–706, § 20–707, or § 20–708 of this subtitle.

9 (d) "Dwelling" means:

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

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

15 (e) (1) "Familial status" means the status of one or more minors who are
16 domiciled with:

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

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

20 (2) "Familial status" includes the status of being:

21 (i) a pregnant woman; or

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

24 (f) "Family" includes a single individual.

25 (g) "In the business of selling or renting dwellings" means:

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

28 (2) within the preceding 12 months, participating as an agent, other than
29 in the sale of the individual's own personal residence, in providing sales or rental facilities

1 or services in two or more transactions involving the sale or rental of any dwelling or any
2 interest in a dwelling; or

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

5 (h) "Marital status" means the state of being single, married, separated, divorced,
6 or widowed.

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

9 (J) (1) **"SOURCE OF INCOME" MEANS ANY LAWFUL SOURCE OF MONEY
10 PAID DIRECTLY OR INDIRECTLY TO OR ON BEHALF OF A RENTER OR BUYER OF
11 HOUSING.**

12 (2) **"SOURCE OF INCOME" INCLUDES INCOME FROM:**

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

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

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

20 (IV) **THE SALE OR PLEDGE OF PROPERTY OR AN INTEREST IN
21 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 orientation,
26 gender identity, [or] disability, **OR SOURCE OF INCOME;** and

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

30 (b) This subtitle:

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

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

5 20–704.

6 (a) This subtitle does not apply to:

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

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

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

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

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

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

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

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

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

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

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

29 (c) (1) (i) In this subsection, “housing for older persons” means housing:

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

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

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

8 4. that meets the requirements set forth in regulations
9 adopted by the Secretary of Housing and Urban Development under 42 U.S.C.
10 § 3607(b)(2)(C).

11 (ii) “Housing for older persons” includes:

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

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

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

19 **(D) THE PROHIBITIONS IN THIS SUBTITLE AGAINST DISCRIMINATION BASED**
20 **ON SOURCE OF INCOME DO NOT:**

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

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

27 20–705.

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

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

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

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

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

16 (5) for profit, induce or attempt to induce any person to sell or rent any
17 dwelling by representations regarding the entry or prospective entry into the neighborhood
18 of a person of a particular race, color, religion, sex, disability, marital status, familial status,
19 sexual orientation, gender identity, [or] national origin, **OR SOURCE OF INCOME**.

20 20–707.

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

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

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

26 (ii) secured by residential real estate; or

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

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

33 (2) Paragraph (1) of this subsection does not prohibit a person engaged in
34 the business of furnishing appraisals of real property from taking into consideration factors

1 other than race, color, religion, sex, disability, marital status, familial status, sexual
2 orientation, gender identity, [or] national origin, **OR SOURCE OF INCOME.**

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

6 (1) deny a person access to, or membership or participation in, a
7 multiple-listing service, real estate brokers' organization, or other service, organization, or
8 facility relating to the business of selling or renting dwellings; or

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

11 20-1103.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2019.