



House Bill 1239
Fair Housing and Housing Discrimination - Regulations, Intent, and Discriminatory Effect
Hearing before the Senate Judicial Proceedings Committee
March 26, 2025

Position: Favorable

Maryland Legal Aid (MLA) submits its written testimony on HB1239 at the request of the bill sponsor Delegate Deni Taveras.

MLA is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. Our 12 offices serve residents in each of Maryland's 24 jurisdictions and handle a range of civil legal matters, including for Marylanders confronting unfair and discriminatory housing practices.

HB1239 brings into Maryland's fair housing law the "disparate impact" theory of housing discrimination that currently exists in federal case law and regulations. We urge the Committee's favorable report on HB01239.

What is a disparate impact claim?

Disparate impact embodies the understanding that landlords, realtors, lenders, and other actors may be liable for unlawfully discriminatory *effects* of their policies or acts even absent discriminatory *intent*. This theory of unlawful discrimination has lived in case law for decades, and in 2013, the U.S. Department of Housing and Urban Development (HUD) published a Final Rule entitled "Implementation of the Fair Housing Act's Discriminatory Effects Standard" to formalize the agency's interpretation of disparate impact liability under the Fair Housing Act.¹

HB1239 secures fair housing amid the current administration's dismantling of enforcement of discrimination.

In 2020, the first Trump Administration rolled back the 2013 Rule, and in 2023 the Biden Administration restored it. Now, under the current Trump administration, HUD is widely expected to replace the disparate impact rule with regulations that would make it nearly impossible for tenants or

¹ See HUD, Implementation of the Fair Housing Act's Disparate Impact Standard, 85 Fed Reg 186 (Sept. 24, 2020), <https://www.federalregister.gov/d/2020-19887/p-11> ("The 2013 Rule also codified a burden-shifting framework for analyzing disparate impact claims under the Fair Housing Act, relying in part on existing case law under the Fair Housing Act, decisions by HUD's administrative law judges, and Title VII of the Civil Rights Act of 1964 (prohibiting employment discrimination).")

homebuyers to prove discriminatory effects. Additionally, the Trump Administration has already begun dismantling civil rights enforcement within HUD by eliminating funding and personnel.²

We face a destructive era that could leave Maryland residents with little or no ability to hold bad actors accountable for discriminatory effects of housing policies. HB1239 is therefore a timely and necessary addition to the state's antidiscrimination laws. HB1239 does not create new laws, causes of action, or penalties. It does not add new protected classes.³ It merely codifies what exists in the federal arena before it is gone.

For these reasons, **Maryland Legal Aid urges the Committee's favorable report on HB1239.**

If you have any questions, please contact:

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² Chris Clow, "HUD announces launch of DOGE task force, targets AFFH rule," HousingWire (Feb. 14, 2025), <https://www.housingwire.com/articles/hud-announces-launch-of-doge-task-force-targets-affh-rule/>.

³ Current Maryland law includes the following protected classes of individuals: race, color, religion, sex, disability, marital status, familial status, sexual orientation, gender identity, national origin, source of income, and military status. Md. Code Ann., State Gov. Art. § 20-702(a).