

Deni's Testimony-4.pdf

Uploaded by: Deni Taveras

Position: FAV

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Health and Government
Operations Committee

Subcommittees

Government Operations
and Health Facilities
Insurance and Pharmaceuticals



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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

**Fair Housing and Housing Discrimination - Regulations, Intent, and Discriminatory Effect - HB
1239**

Testimony of Maryland State Delegate Deni Taveras

Thank you, Chair Smith, Vice Chair Waldstreicher, and esteemed committee members. I am here to request your favorable report on HB 1239, Fair Housing and Housing Discrimination - Regulations, Intent, and Discriminatory Effect.

Overt discrimination has decreased, but its legacy persists. This bill does not change existing fair housing protections but ensures that Maryland upholds and enforces federal fair housing standards at the state level, preventing any potential rollback from the federal level.

Disparate impact theory is a critical tool in fair housing enforcement, allowing claims to be brought against policies that may appear neutral on their face but result in disproportionate harm to protected groups. This legal standard, upheld by the U.S. Supreme Court case - *Texas Department of Housing and Community Affairs v. Inclusive Communities Project (2015)*, ensures that discriminatory outcomes can be challenged even when there is no overt intent to discriminate.

The U.S. Department of Housing and Urban Development (HUD) has historically used disparate impact analysis to enforce the Fair Housing Act, holding landlords, financial institutions, and local governments accountable for policies that lead to housing discrimination. However, federal protections against adversity have come under increasing threat due to Project 2025 and this bill was created as an additional layer of security. This agenda explicitly calls for dismantling HUD's ability to enforce disparate impact claims, weakening fair housing protections across the country.

Currently, most housing discrimination cases are investigated and adjudicated at the federal level, meaning Marylanders must rely on this administration's commitment to civil rights enforcement. However, the current administration has proven to be unstable. Given the uncertainty surrounding federal protections, it is imperative that Maryland establishes its own legal framework to ensure housing justice is protected regardless of federal policy changes.

HB 1239 does not introduce new fair housing laws; it preserves and strengthens the legal protections already in place to ensure Maryland remains aligned with existing federal law. The bill ensures that constituents remain safe by preserving legal standards at the state level, allowing cases to be processed through state courts rather than relying on federal jurisdiction. This proactive measure strengthens legal protections and provides an added layer of security to prevent potential harm.

In closing, I ask this esteemed committee for your favorable report on HB 1239.

HB 1239 PJC FAV in Senate.pdf

Uploaded by: Matt Hill

Position: FAV



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HB 1239 - Fair Housing and Housing Discrimination – Regulations, Intent, and Discriminatory Effect

**Hearing before the Senate Judicial Proceedings Committee,
Mar. 26, 2025**

Position: SUPPORT (FAV)

The Public Justice Center (PJC) is a nonprofit public interest law firm that stands with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing. PJC is a member of Renters United Maryland. PJC urges the Committee to issue a Favorable Report on HB 1239.

Due to the historic, structural nature of racism, sexism, and other prejudices, housing discrimination remains a pervasive issue in Maryland – often manifesting through policies that disparately impact protected groups, including limited income families, persons of color, veterans, and persons with disabilities. These policies and practices create significant barriers to equitable housing access and perpetuate systemic inequalities.

HUD's current discriminatory effects regulation provides guidance for individuals who claim that a policy or practice has a discriminatory effect or "adverse impact" in violation of the federal Fair Housing Act. Public Justice Center has brought at least one discriminatory effects complaint to HUD and successfully resolved the matter with a settlement that has increased housing opportunities for thousands of Maryland families. However, current federal initiatives to [defund HUD's enforcement capacity](#) and likely repeal [HUD's rule](#) on discriminatory effects will decimate this critical tool for enforcing fair housing obligations. Project 2025 aims to reshape federal agencies in a manner that will undermine fair housing protections, making state-level safeguards more crucial than ever.

To be clear: Public Justice Center believes that Maryland's Fair Housing Act, which is modeled on the federal act, should already be interpreted to allow for discriminatory effect claims. In that sense HB 1239 codifies and clarifies existing law. That is HB 1239 spells out the discriminatory effects test already provided for in HUD's regulations into Maryland law, and empowers DHCD to issue additional regulatory guidance. HB 1239 therefore helps clarify that our state laws should be aligned with established federal standards.

HB 1239 will empower the Attorney General's Office and the MD Commission on Civil Rights to effectively oversee and enforce compliance, holding bad actors accountable for discriminatory practices. This proactive approach is essential in safeguarding vulnerable populations and promoting inclusive, diverse communities across Maryland.

Housing is a fundamental human right. It is incumbent upon us to dismantle the structural barriers that impede access to this right. For these reasons, we respectfully ask the committee for a **favorable report on HB 1239.**

Maureen Wambui Testimony in Support of HB1239 – Fa

Uploaded by: Maureen Wambui

Position: FAV

Maureen Wambui

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03/24/2025

Maryland House Environment and Transportation Committee

Maryland General Assembly, Annapolis, MD 21401

Testimony in Support of HB1239 – Fair Housing and Housing Discrimination Act

Hearing Date: March 26th, 2025

Chairperson and Esteemed Members of the Committee,

My name is Maureen Wambui, and I am a community advocate and resident of Legislative District 8 in Maryland. I am writing in **strong support of HB1239** as an immigrant and a first-time homebuyer who has personally experienced housing discrimination. This bill is an essential step toward ensuring fairness in Maryland's housing market and protecting vulnerable individuals from discriminatory practices, whether intentional or not.

When I embarked on the journey to purchase my first home, I encountered numerous barriers that were not simply about financial readiness or creditworthiness. As an immigrant, I faced skepticism from real estate agents, lenders, and even sellers who questioned my ability to afford a home despite having stable employment and a strong financial profile. I was steered away from certain neighborhoods, denied clear explanations about loan terms, and subjected to unnecessary delays that were not imposed on other buyers. It became evident that my background played a role in how I was treated throughout the process.

HB1239 is critical because it acknowledges that discrimination does not always stem from outright malice or intent. Housing policies and practices that result in unequal treatment, whether through lending disparities, biased real estate practices, or exclusionary zoning, must be addressed, even if they were not deliberately designed to discriminate. By affirming that discriminatory effects matter, this bill strengthens fair housing protections and ensures that all Maryland residents, regardless of background, have a fair shot at homeownership.

Additionally, granting the Department of Housing and Community Development the authority to implement fair housing regulations is a necessary safeguard. It will provide clearer guidelines to prevent discrimination and hold institutions accountable when their practices result in inequitable outcomes.

Homeownership is a cornerstone of stability and wealth-building in America. No one should be denied this opportunity because of their immigration status, ethnicity, or any other factor beyond

their control. I urge you to pass HB1239 and help create a more just and equitable housing market in Maryland.

Thank you for your time and consideration.

Respectfully submitted,

Maureen Wambui.

Gibson Banks Center Testimony HB 1239 - Fair Housi

Uploaded by: Monique Dixon

Position: FAV

Testimony Concerning House Bill 1239
Fair Housing and Housing Discrimination – Regulations, Intent, and Discriminatory Effect
Position: Favorable

To: Senator William C. Smith, Jr., Chair
Senator Jeff Waldstreicher, Vice Chair
Members of the Judicial Proceedings Committee

From: Monique L. Dixon, Executive Director and Michael Pinard, Faculty Director,
Gibson-Banks Center for Race and the Law

Date: March 24, 2025

On behalf of the Gibson-Banks Center for Race and the Law (“Gibson-Banks Center” or “Center”) at the University of Maryland Francis King Carey School of Law,¹ we appreciate the opportunity to submit testimony in support of House Bill 1239 (HB 1239), which would, among other things, codify existing fair housing case law allowing persons to challenge housing policies or practices that have a discriminatory effect. We urge the committee to issue a favorable report because the bill would: (1) affirm the availability of discriminatory effects analysis under Maryland fair housing laws; and (2) address historical racial discrimination and persistent racial inequalities in housing in the state.

The Gibson-Banks Center works collaboratively to re-imagine and transform institutions and systems of racial inequality, marginalization, and oppression. Through education and engagement, advocacy, and research, the Center examines and addresses racial inequality, including the intersection of race with sex or disability, and advances racial justice in a variety of issue areas, including housing.

HB 1239 would codify existing fair housing case law and affirm the availability of discriminatory effects analysis, also known as disparate impact theory, to prove housing discrimination

Marylanders are protected from housing discrimination under both federal and state antidiscrimination laws. The provisions of Maryland’s housing antidiscrimination law are

¹ This written testimony is submitted on behalf of the Gibson-Banks Center and not on behalf of the University of Maryland Francis King Carey School of Law or the University of Maryland, Baltimore.

“substantially equivalent or similar” to the federal Fair Housing Act (FHA), as amended,² and Maryland courts have been guided by federal case law interpreting FHA when considering the state’s analog.³

In *Texas Department of Housing and Community Affairs et. al v. The Inclusive Communities Project, Inc., et. al*, 576 U.S. 519 (2015), the U.S. Supreme Court held that a person could prove discrimination under the FHA using disparate impact theory.⁴ This theory challenges a housing policy or practice that is applied neutrally, i.e., without the intent to discriminate, but has an unjustified, disproportionately adverse effect on individuals protected by the Act, such as racial groups or persons with disabilities.⁵ In support of its holding, the Court noted that nine federal courts of appeals had concluded that “the Fair Housing Act encompassed disparate-impact claims.”⁶ Additionally, the Court noted that in 2013, the U.S. Department of Housing and Urban Development (HUD) issued a regulation “interpreting the FHA to encompass disparate-impact liability,”⁷ by formally establishing the three-part burden-shifting test for determining when a practice with a discriminatory effect violates the Fair Housing Act.”⁸

In 2020, however, during the Trump administration, HUD issued a new regulation that made it more difficult for individuals protected by the FHA to challenge housing practices that had a discriminatory effect, or disparate impact.⁹ Defenders of fair housing filed a lawsuit challenging the regulation and in October 2020, a federal court issued a nationwide preliminary

² See, Fair Housing Act, 42 U.S.C. §§ 3601 *et. seq.* (prohibiting discrimination in the sale, rental, advertising, or financing of housing because of race, color, national origin, religion, sex, familial status, or disability.). Maryland’s housing antidiscrimination law provides protection to more protected classes, such as marital status and gender identity. See, MD. CODE ANN, STATE GOV’T §§ 20-701 *et seq.* (prohibiting discrimination in the sale, rental, advertising or financing of housing because of because of race, color, religion, sex, familial status, national origin, marital status, sexual orientation, gender identity, disability, source of income, or military status).

³ See *e.g.*, *Wallace H. Campbell & Company, Inc. v. Maryland Comm’n on Human Relations*, 202 Md. App. 650, 667-68 (Ct. App. 2011) (noting that the Maryland legislature enacted Article 49B § 22(a)(9) (now MD Code Ann, State Gov’t §20-706) to include provisions that prohibit discriminatory housing practices in a “manner substantially equivalent or similar to the federal Fair Housing Amendments Act of 1988.” Accordingly, the Maryland appellate court was “guided by the case law interpretation of the Federal statute when ...[it] examine[d] the State analog.”)

⁴ 576 U.S. 519, 545-46 (2015). An aggrieved person may also prove discrimination under the FHA using the disparate treatment theory “where a plaintiff must establish that the defendant had a discriminatory intent or motive...” *Id.* at 524.

⁵ *Id.* at 524-25 (explaining that “a plaintiff bringing a disparate impact claim challenges practices that have a ‘disproportionately adverse effect on minorities’ and are otherwise unjustified by a legitimate rationale.”).

⁶ *Id.* at 535-36.

⁷ *Id.* at 527.

⁸ U.S. Department of Housing and Urban Development, *Implementation of the Fair Housing Act’s Discriminatory Effects Standard*, 78 Fed. Reg. 11460 (Feb. 15, 2013), <https://www.govinfo.gov/content/pkg/FR-2013-02-15/pdf/2013-03375.pdf>.

⁹ U.S. Department of Housing and Urban Development, *HUD’s Implementation of the Fair Housing Act’s Disparate Impact Standard*, 85 Fed. Reg. 60288 (Sept. 24, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-09-24/pdf/2020-19887.pdf>; See generally, Ed Gramlich, *Disparate Impact*, National Low Income Housing Coalition (comparing the HUD’s 2013 and 2020 disparate impact regulations), https://nlihc.org/sites/default/files/2023-03/2023AG8-03_Disparate-Impact.pdf.

injunction preventing HUD from implementing it.¹⁰ In March 2023, the Biden administration restored the 2013 discriminatory effect regulation.¹¹

HB 1239 would codify existing case law acknowledging that the discriminatory effects analysis is a tool one may use to prove housing discrimination. It would also ensure the availability of discriminatory effects liability under Maryland law at a time when the new Trump administration will likely take steps to limit or eliminate it.¹²

Maryland’s history of racial discrimination and persistent racial inequalities in housing opportunities demonstrate the need for HB 1239.

Maryland has a shameful history of racial discrimination in housing and the vestige of this discrimination continues today. In 1910, Baltimore became the first city in the nation to pass a residential segregation ordinance that prohibited Black people from moving into a “white” neighborhood, inspiring a wave of similar laws in cities across the country.¹³ After the Supreme Court declared such laws unconstitutional in *Buchanan v. Warley*,¹⁴ private real estate actors across the state advanced the cause of residential segregation through practices such as racially restrictive covenants, which prohibited the resale of property to Black people.¹⁵

The problem of racially segregated housing in Maryland worsened in the 1930s when the federal government, through the Home Owners’ Loan Corporation (HOLC), published a color-coded map that graded communities according to the financial risks they posed to lenders and investors.¹⁶ Black communities were “redlined,” meaning that they were colored red on the HOLC maps, indicating that they were the least desirable candidates for mortgages and other

¹⁰ *Massachusetts Fair Housing Center, et al. v. United States Department of Housing and Urban Development, et al.*, Memorandum and Order Regarding Plaintiffs’ Motion for Preliminary Injunction Under 5 U.S.C. § 705 to Postpone the Effective Date of HUD’s Unlawful New Rule, Civil Action No. 20-11765-MGM (D-MA Oct. 25, 2020).

¹¹ U.S. Department of Housing and Urban Development, *Reinstatement of HUD’s Discriminatory Effects Standard*, 88 Fed. Reg. 19450 (Mar. 31, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-03-31/pdf/2023-05836.pdf>.

¹² The Trump administration’s policy agenda mirrors the Heritage Foundation’s *Mandate for Leadership, Project 2025*, https://static.project2025.org/2025_MandateForLeadership_FULLL.pdf, which calls for an end to disparate impact theory as a tool for proving discrimination under several federal antidiscrimination laws.

¹³ DENNIS PATRICK HALPIN, A BROTHERHOOD OF LIBERTY BLACK RECONSTRUCTION AND ITS LEGACIES IN BALTIMORE, 1865-1920, 162-176 (2019), Matthew Yglesias, *How Baltimore Invented Neighborhood Segregation*, VOX (May. 10, 2015), <https://www.vox.com/2015/5/10/8578077/baltimore-segregation-pietila>; Garrett Power, *Apartheid Baltimore Style: The Residential Segregation Ordinances of 1910-1913*, 42 MD. L. REV. 289 (1983), <https://digitalcommons.law.umaryland.edu/mlr/vol42/iss2/4/>.

¹⁴ 245 U.S. 60 (1917).

¹⁵ See, e.g., Power, *supra* note 13, at 319; MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT DIVISION OF JUST COMMUNITIES, SEPARATE AND UNEQUAL NEIGHBORHOODS 13 (2024) [Hereinafter SEPARATE AND UNEQUAL], <https://dhcd.maryland.gov/Just-Communities/Documents/Baseline-Report.pdf> (“Racially restrictive covenants, clauses in residential deeds barring the sale of homes to non-whites, were common in Montgomery County . . .”)

¹⁶ David Armenti & Alex Lothstein, *Baltimore’s Pursuit of Fair Housing: A Brief History*, MARYLAND CENTER FOR HISTORY AND CULTURE, <https://www.mdhistory.org/baltimores-pursuit-of-fair-housing-a-brief-history/>.

investments.¹⁷ Black residents in these areas accordingly struggled to access loans and suffered discrimination from mortgage lenders and real estate brokers as well as overall disinvestment.¹⁸

Sadly, racial inequalities in housing continues in Maryland. In 2024, the Maryland Department of Housing and Community Development Division of Just Communities conveyed that Marylanders of color, including Black Marylanders, face “bias in the rental housing market, mortgage lending, and housing valuation, and disparities in housing stability, homeownership retention, and intergenerational wealth creation.”¹⁹ Additionally, a newly published report by the Abell Foundation presents evidence of racial bias in home appraisals that undervalues homes in predominantly Black communities in the Baltimore metropolitan area.²⁰

By codifying discriminatory effects analysis for proving discrimination under Maryland’s housing antidiscrimination law, HB 1239 would help to ensure that Marylanders are protected from various forms of housing discrimination.

For the above reasons, we urge you to issue a favorable report on HB 1239.

¹⁷ *Id.*

¹⁸ *See id.*; SEPARATE AND UNEQUAL, *supra* note 15, at 7.

¹⁹ SEPARATE AND UNEQUAL, *supra* note 15, at 2.

²⁰ Ira Goldstein with Alana Kim, *Evidence of Racial Bias in Home Appraisals in the Baltimore Metropolitan Area*, The Abell Foundation (March 2025), https://abell.org/wp-content/uploads/2025/03/2025_Abell-Foundation_Appraisal-Bias_vf-digital.pdf.

HB 1239 OAG testimony in support 2025 housing disp

Uploaded by: Rashida Ogletree-George

Position: FAV



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**STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CIVIL RIGHTS DIVISION**

ANTHONY G. BROWN
Attorney General

**Testimony of Rashida Ogletree-George, Deputy Division Chief of the Civil Rights Division
Before the Senate Judicial Proceedings Committee
In Support of House Bill 1239
March 26, 2025**

Marylanders are protected from discrimination in housing by state, local, and federal law. It is illegal to deny someone equal access to housing based on a broad range of demographic characteristics, including race, gender, sexuality, gender identity, disability, or familial status. In 2023, the General Assembly extended protections against discrimination to include persons who use a government voucher to pay rent when it enacted the Housing Opportunities Made Equal or “HOME” Act.

Nevertheless, housing discrimination in Maryland continues to persist. Maryland is amongst the most diverse state in the nation,¹ yet it remains highly segregated.² Segregation has an impact on every aspect of life. The ability to live where one chooses affects access to nutrition or health care,³ defines what school a student can attend, limits access to work or transportation, and impacts recreational and cultural opportunities. Housing discrimination also impacts the value of a home based on the race of the owner, which has a serious impact on wealth inequality and the creation of generational wealth.⁴

Discrimination has become more subtle. No longer are there signs posted on the lawn of an apartment building that Blacks or Jews or other racial groups are not welcome, and restrictive covenants have long been outlawed. Landlords, persons selling real estate, and homeowner

¹ <https://www.census.gov/library/visualizations/interactive/racial-and-ethnic-diversity-in-the-united-states-2010-and-2020-census.html>

² Maryland Segregation Map, https://hdpulse.nimhd.nih.gov/data-portal/physical/map?race=00&race_options=raceall_1&sex=0&sex_options=sexboth_1&age=001&age_options=ageall_1&statefips_options=area_states&demo=01005&demo_options=res_seg_2&physicaltopic=100&physicaltopic_options=physical_2&statefips=24

³ Huang SJ, Sehgal NJ (2022) Association of historic redlining and present-day health in Baltimore. PLoS ONE 17(1): e0261028. <https://doi.org/10.1371/journal.pone.0261028> (last visited January 24, 2024).

⁴ D. Kamin, Home Appraised With a Black Owner: \$472,000. With A White Owner: \$750,000, New York Times (August 18, 2022); <https://www.nytimes.com/2022/08/18/realestate/housing-discrimination-maryland.html> (last visited January 28, 2024)

associations have found other ways to exclude persons with demographic characteristics that they deem “undesirable.” People in protected classes are not told that they are not welcome because of their race gender, family status, sexuality, gender identity, or disability. Instead, they are told that the property is no longer available, that they must pass an onerous background check, or that the cost is higher than advertised.

Discrimination can also occur when there is a policy that applies generally to all tenants, but has a disparate impact on persons with a protected demographic characteristic. In these circumstances, a housing provider may not intend to discriminate, but the effect is just as significant. A policy for example that imposes a limit on the number of people who can occupy an apartment to match the number of bedrooms, may discriminate based on familial status; a policy prohibiting renting to tenants who have a felony conviction on their record regardless of the offense or how long ago may discriminate against Black tenants because of the race bias built into the criminal legal system; a policy that a tenant is subject to eviction if a crime occurred on the property may discriminate against women domestic violence victims; or a policy against unrelated persons occupying a unit might discriminate against a person with a disability who needs a live-in care giver.

The United States Supreme Court has recognized that under the Fair Housing Act, disparate impact can constitute unlawful discrimination in certain circumstances. The Court created a careful balance between the values of our anti-discrimination laws and the legitimate business interests of housing providers. The courts have adopted a three-part burden shifting test. First, is there a policy of general application that has a discriminatory effect on a protected class? If so, the court moves to the second step of whether there are legitimate business interests being achieved by the policy? And finally, the burden shifts back to the question of whether the policy is the least restrictive mechanism to reasonably achieve the business objective.⁵

Disparate impact theory is under attack, and the threat has increased under the Trump Administration. Long in the cross hairs of conservative groups, Project 2025, which is serving at the roadmap for the Trump Administration, calls for an end to disparate impact theory across the government.⁶ Challenges to federal disparate impact regulations have been struck down by some courts⁷ and Presidential executive orders regarding diversity, equity, inclusion, and accessibility that sweep so broadly that they may cover efforts to address the discriminatory effects of a policy set the stage for federal regulation to eliminate disparate impact under federal law. During the first Trump Administration, the federal government attempted to limit the use of disparate impact under the Fair Housing Act.⁸

Disparate impact remains the law, however, its future is unknown. As the federal government grows hostile to civil rights enforcement, the importance of Maryland’s laws

⁵ *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015).

⁶ Heritage Foundation, Mandate for Leadership, Project 2025, https://static.project2025.org/2025_MandateForLeadership_FULL.pdf

⁷ *Louisiana v. United States*, 712 F. Supp. 820 (W.D. La. 2024)

⁸ Center on Budget and Policy Priorities, Reversing Harmful Trump Policies Will Advance Housing Justice, January 26, 2021

increase. While we believe that disparate impact is available under current law, HB 1239 ensures that there is no ambiguity. For these reasons, we urge a favorable report.

2025-03-26-HB1239-Housing Disc-Intent (MCCR FAV).p

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Position: FAV



State of Maryland Commission on Civil Rights

Respect...Integrity...Effective Communication

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March 26, 2025

House Bill 1239 - Fair Housing and Housing Discrimination - Regulations, Intent, and Discriminatory Effect Position: Support

Dear Chairperson Smith, Vice Chairperson Waldstreicher, and Members of the Senate Judicial Proceedings Committee:

The Maryland Commission on Civil Rights (“MCCR”; “The Commission”) is the State agency responsible for enforcing Maryland’s laws prohibiting discrimination in employment, housing, public accommodations, state contracts, commercial leasing, and health services based on race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, gender identity, genetic information, physical and mental disability, source of income, and military status.

House Bill 1239 codifies disparate impact theory, an incredibly valuable tool established by *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971) that has been instrumental in the enforcement of federal, State, and local housing anti-discrimination laws for decades. Disparate impact theory holds that a housing practice is unlawful if it adversely affects one group of protected people more than another despite the practice being applied neutrally and without intent to discriminate. HB1239 carves out an exception for housing practices justified by a legitimate business necessity that do not have other less discriminatory means of accomplishing that necessity.

Because HB1239 codifies existing case law, it will not have an impact on the way MCCR currently enforces Maryland’s housing anti-discrimination protections found in Title 20 of the State Government Article. Rather, HB1239 insulates Maryland from potential legal challenges seeking to overturn *Griggs* and, more specifically, the use of disparate impact theory that the U.S. Supreme Court says is a violation of both the Civil Rights Act of 1964 and the Fair Housing Act of 1968.

Historically, approximately 30% of MCCR’s annual complaint intakes are housing discrimination matters¹. As we at the Commission have seen over the years, it is becoming increasingly more common for housing providers to engage in covert acts of discrimination as opposed to overt, blatantly discriminatory acts. These housing practices, when taken at face value, appear neutral and harmless. However, when implemented, these practices have

¹ In FY2024, MCCR received 676 total complaints, 247 of which were complaints alleging unlawful housing discrimination. This is a sharp increase from FY2023 when MCCR received 661 total complaints, 167 of which alleged unlawful housing discrimination.

“Our vision is to have a State that is free from any trace of unlawful discrimination.”

a disproportionately adverse impact against protected classes covered by Maryland law, such as individuals with disabilities and racial minorities². Another increasing trend that's held true for many years, according to MCCR's Annual Reports³, is a housing provider retaliating against a tenant for filing a grievance, such as with a governmental enforcement agency like MCCR, attempting to rectify the alleged discriminatory practice⁴. If disparate impact theory were to be overturned, many victims of unlawful housing discrimination seeking relief would be left without protection by the spirit of Maryland law. HB1239 makes disparate impact theory both the spirit and the letter of the law.

For these reasons, the Maryland Commission on Civil Rights urges a favorable vote on HB1239. Thank you for your time and consideration of the information contained in this letter. MCCR looks forward to the continued opportunity to work with you to promote and improve fair housing and civil rights in Maryland.

² In FY2024, disability, race, and source of income complaints were the top 3 identified protected classes with 294, 96, and 63 allegations, respectively.

³ <https://mccr.maryland.gov/Pages/Publications.aspx>

⁴ In FY2024, retaliation in housing complaints was alleged 56 times. Harassment, meanwhile, was #2 among all complaints with 109 allegations.

HB1239 - Senate JPR - Maryland Legal Aid - FAV.pdf

Uploaded by: Zafar Shah

Position: FAV



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:

Zafar Shah
Advocacy Director for Human Right to Housing
zshah@mdlab.org | (410) 951-7672

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).

AOBA & MMHA HB1239 - FWA.pdf

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Position: FWA



Bill No: HB1239 - Fair Housing and Housing Discrimination - Regulations, Intent, and Discriminatory Effect

Committee: Judicial Proceedings Committee

Date: March 26, 2025

Position: Favorable with Amendments

Joint Testimony on House Bill 1239 from the Apartment and Office Building Association of Metropolitan Washington and the Maryland Multi-Housing Association

This testimony is offered on behalf of the members of the Apartment and Office Building Association of Metropolitan Washington (AOBA) and the Maryland Multi-Housing Association (MMHA). AOBA is a non-profit trade association representing more than 133,000 apartment units in Montgomery and Prince George's Counties. MMHA is a professional trade association established in 1996, whose members house more than 538,000 residents of the State of Maryland. MMHA's membership consists of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities and more than 250 associate member companies who supply goods and services to the multi-housing industry.

House Bill 1239 would authorize the Maryland Department of Housing and Community Development to adopt regulations to affirmatively further fair housing and prohibit a person from acting in a manner that has a discriminatory effect against a person related to the sale or rental of a dwelling. The bill provides that housing providers can be held responsible for potential discriminatory housing practices regardless of intent. While AOBA and MMHA support the sponsor's intent to eliminate any form of discriminatory practices, the industry is concerned with a new legal standard based on the overly broad nature of intent.

The Attorney General's Office's (AGO) written testimony for the House hearing provided examples of discrimination but failed to highlight the federal guidance and local laws that prevent those actions from being discriminatory. The AGO cites bedroom occupancy standards, criminal background screenings, evictions against victims of domestic violence, and disability-related requests as potential discriminatory practices. However, the 1998 Keating memo makes clear that bedroom occupancy standards are

not discriminatory against familial status.¹ Montgomery and Prince George's Counties, along with countless other jurisdictions around the country, have laws that allow screening of prospective tenants based on criminal convictions. The federal government released an interagency statement in 2024 affirming the housing rights of survivors of domestic violence, dating violence, sexual assault, and stalking under the Violence Against Women Act (VAWA).² Lastly, disability-related needs are protected by the Fair Housing Act which prohibits the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling³.

AOBA and MMHA ask that "regardless of intent" be stricken from the bill. We note that federal case law and 42 U.S. Code Chapter 45 – Fair Housing already outlines what this bill appears to be trying to do, while covering intent, and that Maryland laws currently mirror the federal Law.⁴ Moreover, on page 4, line 28, it states that a person has not violated a prohibition if the action was without discriminatory intent which is contradictory. Instead, it would be reasonable to also strike that language but include language on that same page, lines 31-32 (6)(b)(3) to read as follows:

The person could not have accomplished the legitimate business necessity by equally valid and less discriminatory means.

It is for these reasons that AOBA and MMHA respectfully request **a favorable report with amendments** on House Bill 1239. Please contact Brian Anleu at banleu@aoba-metro.org or Ashley Clark at ashley.clark@mdlobbyist.com with any questions or concerns.

¹ https://www.hud.gov/sites/documents/doc_7780.pdf

² <https://www.hud.gov/vawa#close>

³ [huddojstatement.pdf](https://www.hud.gov/sites/documents/huddojstatement.pdf)

⁴ <https://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter45&edition=prelim>

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Maryland Developmental Disabilities Council

CREATING CHANGE • IMPROVING LIVES

Senate Judicial Proceedings Committee

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Effect

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Letter of Information

The Maryland Developmental Disabilities Council (Council) is an independent, public policy organization that creates change to make it possible for people with developmental disabilities to live the lives they want with the support they need. From this perspective, the Council advocates for policies and programs that make Maryland a place where everyone is able to live where they want.

Maryland is in a housing crisis that affects all communities, but disproportionately amplified for people with disabilities. Individuals with disabilities are more likely to be extremely low-income renters and to experience higher rates of discrimination in housing.¹ Data from the Social Security Administration shows that the 4.1 million people with disabilities ages 18 to 64 who receive Supplemental Security Income (SSI) cannot afford an apartment in *any housing market in the United States*, which puts them at a disadvantage when encountering housing discrimination. Still, data from the U.S. Department of Housing and Urban Development show 45% of all housing complaints report to HUD were disability-based.

We understand the intention of this bill is to allow the Department of Housing and Community Development (the Department) to adopt regulations that advance fair housing protections. This has the potential to benefit people with disabilities, among many other communities. As this work moves forward, it will require thoughtful consideration about the implementation. The best way to do this is by the Department continuing to work with disability advocates in the community.

Contact: Dr. Stephanie Dolamore, Deputy Director, sdolamore@md-council.org

¹ <https://www.americanprogress.org/article/recognizing-addressing-housing-insecurity-disabled-renters/>