



**Written Testimony of David Wheaton
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**Submitted to the Judicial Proceedings Committee of
the Maryland State Senate
In Connection with the February 3, 2026, Hearing**

My name is David Wheaton, and I am an attorney with the Legal Defense Fund (LDF). LDF offers the following testimony in support of Senate Bill 274, which would strengthen state fair housing laws and provide guidance to Maryland cities, counties, and housing authorities on proactive steps to combat housing discrimination and overcome patterns of housing segregation.

Every Marylander should have access to safe, affordable, and accessible housing in thriving neighborhoods, free from discrimination. Unfortunately, the Trump administration has rolled back key federal regulations that prevent housing discrimination and encourage local housing authorities to create thriving neighborhoods for all people. Now more than ever, Maryland must protect its residents in light of the Trump administration's rollback of key fair housing policies. LDF urges the Judicial Proceedings Committee to issue a favorable report on SB 274.

Founded in 1940 by Thurgood Marshall, LDF is the nation's oldest racial justice law organization. Since its inception, LDF has worked to ensure fair housing opportunities for Black communities. Some of LDF's early victories in the Supreme Court stemmed from cases such as *Shelley v. Kraemer*, 334 U.S. 1 (1948), and *McGhee v. Sipes*, 334 U.S. 1 (1948), which held that state enforcement of racially-restrictive covenants violated the Equal Protection Clause. In the decades since those victories, LDF has continued to challenge public and private policies and practices that deny Black people safe, livable housing free from discrimination.

This testimony will address: 1) the barriers Black communities face when trying to access housing; 2) how SB 274 strengthens Maryland fair housing law and will help Maryland overcome ongoing residential segregation; and 3) how the current Trump administration has abandoned longstanding federal regulations related to fair housing and finally how SB 274 pushes back.

I. Black Communities Face Barriers When Trying to Access Housing.

Where a person lives often determines the opportunities they have, from where they attend to school to the quality of the air they breathe. But decades after the passage of the federal Fair Housing Act of 1968, many communities are still segregated by race,¹ and too many people struggle to access housing in the neighborhoods of their choice because they have children, live with a disability or face other barriers. Today’s barriers result from policies that perpetuate the harms of intentional discriminatory government policies and ongoing discriminatory conduct.

For decades, the federal government encouraged housing discrimination against Black communities through explicitly racist policies and practices.² For example, the former Federal Home Owners’ Loan Corporation (HOLC) used color-coded maps to represent the perceived risk of lending in particular neighborhoods, with “hazardous” (the highest risk) areas coded in red.³ HOLC routinely gave Black communities a “hazardous” rating, discouraging lending in those “redlined” areas.⁴ In Baltimore, for example, while white neighborhoods tended to fall within the higher ranking green- and blue-colored grades, most Black neighborhoods were almost exclusively redlined.⁵ State and local governments also played a role in encouraging housing discrimination against Black communities. Baltimore City Ordinance 610, known as the West Plan, passed by the City of Baltimore in December of 1910, stated no Black resident could move to a block where more than half of the residents were white and vice versa.⁶

Black people continue to struggle to find safe, stable, and affordable housing in the neighborhoods of their choice as a result of historical and ongoing discrimination.

- Black communities in Maryland still experience the harms of redlining and other intentionally exclusionary policies.⁷ Black people are more likely to live in segregated neighborhoods than any other racial or ethnic group in the United States.⁸ Moreover, Black people still disproportionately live in formerly redlined areas, which tend to have fewer resources than other areas.⁹ Research from the University of Maryland School of

¹ Jorge Andres Soto, *Persistent Acts of Housing Discrimination Perpetuate Segregation*, New York University - Furman Center, (December 2016), <https://furmancenter.org/research/iri/essay/persistent-acts-of-housing-discrimination-perpetuate-segregation>

² Danyelle Solomon, et al., *Systematic Inequality: Displacement, Exclusion, and Segregation How America’s Housing System Undermines Wealth Building in Communities of Color*, Center for American Progress, (August 2019), <https://www.americanprogress.org/wp-content/uploads/sites/2/2019/08/StructuralRacismHousing.pdf>

³ Id.

⁴ Richard Rothstein, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017).

⁵ David Armenti and Alex Lothstein, *Baltimore’s Pursuit of Fair Housing: A Brief History*, Maryland Center for History and Culture, (2020), <https://www.mdhistory.org/baltimores-pursuit-of-fair-housing-a-brief-history/#:~:text=During%20the%20early%201900s%2C%20white.against%20and%20segregate%20Black%20Baltimoreans.>

⁶ Garrett Power, *Apartheid Baltimore Style: the Residential Segregation Ordinances of 1910-1913*, 42 Md. L. Rev. 289 (1983) Available at: <http://digitalcommons.law.umaryland.edu/mlr/vol42/iss2/4>

⁷ Kelly Blake, *UMD Study Shows Lower Life Expectancy in Redlined Neighborhoods*, University of Maryland: Maryland Today, (January 19, 2022), <https://today.umd.edu/umd-study-shows-lower-life-expectancy-in-redlined-neighborhoods#:~:text=UMD%20Study%20Shows%20Lower%20Life, stark%20disparities%20to%20this%20day.>

⁸ Solomon Greene, Margery Austin Turner, & Ruth Gourevitch, *Racial Residential Segregation and Neighborhood Disparities*, Urban Institute (Aug, 2017), <https://www.urban.org/sites/default/files/publication/92961/racial-residential-segregation-and-neighborhood-disparities.pdf>

⁹ Nadia Lathan, *50 years After Being Outlawed, Redlining Still Drives Neighborhood Health Inequities*, UC Berkeley School of Public Health, (September 20, 2023), <https://publichealth.berkeley.edu/articles/spotlight/research/50-years-after-being-outlawed-redlining-still-drives-neighborhood-health-inequities>

Public Health, shows people currently residing in redlined areas suffer from lower life expectancy than those living in areas with green or blue grades.¹⁰

- There is a large and growing racial homeownership gap. In 2021, Black families in the U.S. had a homeownership rate of 46.4% compared to 75.8% of white families.¹¹ In Maryland, racial homeownership gap is even higher: while the white homeownership rate is 77%, the Black homeownership rate is 51%.¹² In majority Black Baltimore, the Black homeownership gap is 30.1%.¹³
- Communities of color are more likely to have lower credit scores because historically, they've been denied affordable financial services and wealth-building opportunities.¹⁴ Black households also have the highest eviction removal count in Maryland—almost three times higher than the white resident eviction rate.¹⁵ Because landlords often review credit scores or eviction history in determining whether to rent to a prospective tenant, Black renters can face disproportionate barriers in accessing rental housing.

SB 274 will help remedy decades-long exclusion of Black residents, other residents of color, people with disabilities, and other protected classes who have experienced historic and present-day discrimination. The legislation will also help ensure there are fair and affordable housing opportunities and stronger, more viable neighborhoods for Black residents and members of other protected classes.

II. SB 274 Strengthens Maryland Fair Housing Law and Will Help Maryland Overcome Patterns of Housing Segregation.

SB 274 codifies liability for disparate impact discrimination in Maryland fair housing law and permits the Maryland Department of Housing and Community Development (DHCD) to issue guidance on how counties, cities, and housing authorities must affirmatively further fair housing (AFFH) in Maryland. Both disparate impact liability and AFFH regulations are essential tools to addressing housing discrimination and decreasing residential segregation.

A. Disparate Impact Liability is Crucial for Preventing Housing Discrimination.

The federal Fair Housing Act prohibits not only intentional discrimination, but also policies with unjustified discriminatory effects—what is known as disparate impact

¹⁰ Id.

¹¹ Rashawn Ray, Andre Perry, & David Harshbarger, *Homeownership, Racial Segregation, and Policy Solutions to Racial Wealth Equity*, Brookings Inst. (Sept. 1, 2021), <https://www.brookings.edu/articles/homeownership-racial-segregation-and-policies-for-racial-wealth-equity/>

¹² Stateline, *Black Families Fall Further Behind on Homeownership*, Maryland Matters (Oct. 15, 2022), <https://www.marylandmatters.org/2022/10/15/black-families-fall-further-behind-on-homeownership/#:~:text=The%20overall%20homeownership%20rate%20is,Black%20homeownership%20rate%20is%2051%25.>

¹³ Id.

¹⁴ Abby Boshart, *How Tenant Screening Services Disproportionately Exclude Renters of Color from Housing*, The Urban Institute, (December 21, 2022), <https://housingmatters.urban.org/articles/how-tenant-screening-services-disproportionately-exclude-renters-color-housing#:~:text=Credit%20scores%20were%20another%20important,payments%2C%20or%20rental%20payment%20history.>

¹⁵ Tim Thomas, et al, *Baltimore Eviction Map*, The Eviction Study, (May 8, 2020), <https://evictionresearch.net/maryland/report/baltimore.html#:~:text=Black%20headed%20households%20had%20the.e.eviction%20rate%20of%205.2%25.>

discrimination.¹⁶ Disparate impact discrimination occurs when a policy or practice disproportionately harms a group of people with a legally-protected characteristic (like race, sex (including sexual orientation and gender identity), national origin, religion, familial status, and disability) and there is either: 1) no legitimate reason for the policy or practice, or 2) another policy or practice would achieve the same goals without causing those harms. For decades, disparate impact has provided a legal remedy against zoning laws that excluded people of color,¹⁷ renter screening practices that hurt Black renters and applicants with other protected characteristics,¹⁸ and evictions that punish domestic violence survivors for calling 911.¹⁹

Disparate impact has been an essential tool for combating housing discrimination since the earliest days of the federal Fair Housing Act. Soon after the Act took effect, the Nixon administration challenged an ostensibly race-neutral zoning ordinance that had a unjustified discriminatory effect on Black people and would perpetuate segregation, leading an appellate court to affirm in 1975 that this was a proper use of the federal Fair Housing Act.²⁰ Other federal appellate courts—including the Fourth Circuit, which includes Maryland—followed suit.²¹ In 2015, the Supreme Court agreed, holding “disparate-impact claims are cognizable under the Fair Housing Act.”²²

Similarly, in *Hare v. David S. Brown Enterprises, Ltd*, 491 Md. 653 (2025), the Maryland Supreme Court recently ruled the Maryland Fair Housing Act prohibits disparate impact discrimination. The court found that a landlord’s minimum income requirement could unjustly discriminated against people who receive rental assistance because it did not account for the portion of the rent paid for by the government. However, these protections are not codified into law.

Disparate impact protections permit housing providers to rely on well-reasoned policies while protecting people from unjustified practices that cause disproportionate harm. Courts apply a burden shifting framework to determine if a facially-neutral policy unlawfully discriminates. Plaintiffs must first prove that discriminatory effects on a protected group are caused by a specific policy using robust statistical analysis. The burden then shifts to the defendant to prove the policy is necessary to meet a substantial, legitimate, nondiscriminatory interest. If successful, the plaintiff must then show a less discriminatory policy exists. Housing providers are never liable for disparate impact discrimination based on statistical disparities alone.

¹⁶ *Texas Dep’t of Housing & Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 545 (2015),

¹⁷ Lewyn, Michael (2022) “Recent Case Law, Disparate Impact, and Restrictive Zoning,” *Touro Law Review*: Vol. 38: No. 2, Article 6.

Available at: <https://digitalcommons.tourolaw.edu/lawreview/vol38/iss2/6>

¹⁸ *Louis et al. v. SafeRent et al.* 1:22-cv-10800 (D. Mass. 2023) (Court held that defendant SafeRent was subject to the FHA and that plaintiffs had alleged a plausible claim for disparate impact discrimination under the FHA for discriminating against Black and Brown renters)

¹⁹ *Briggs v. Borough of Norristown, et al.* (E.D. PA 2013) (The Norristown ordinance penalizes landlords and encourages them to evict their tenants when the police are called to a property three times in four months for “disorderly behavior,” including responding to incidents of domestic violence. Lakisha Briggs was threatened with eviction under this policy after she called the police for protection from her abusive ex-boyfriend. Plaintiffs alleged that the ordinance had a disparate impact on female tenants of properties in Norristown, such as Ms. Briggs, who are victims of domestic violence and, therefore, continues to discriminate on the basis of sex.)

²⁰ See *United States v. City of Black Jack*, 508 F.2d 1179 (8th Cir. 1975).

²¹ *Betsey v. Turtle Creek Assocs.*, 736 F.2d 983, 988-89 (4th Cir. 1984).

²² *Inclusive Communities*, 576 U.S. at 545.

Disparate impact prohibitions help all people achieve safe, stable, affordable housing free from discrimination. Eliminating disparate impact discrimination benefits everyone by removing unfair barriers that do not have a legitimate purpose. For example, a landlord policy that relies on credit scores to screen applicants with a housing choice voucher. That policy could have a disparate impact to Black voucher holders because we know that Black people disproportionately have lower credit scores due to lack of access. Eliminating those requirements benefits all renters who would otherwise have been excluded by those unnecessary policies.

SB 274 codifies the disparate impact liability framework, which has helped root out hidden discrimination, into Maryland state law. These protections are needed as Black people continue to face obstacles when trying to access safe, stable, and affordable housing. While the *Hare* decision found the Maryland Fair Housing Act prohibits disparate impact discrimination, having a statutorily-codified standard creates predictability for both housing providers and individuals alike. Codifying this standard is also beneficial because rather than having courts figure out on a case-by-case basis how to best address complaints codifying disparate impact gives courts a clear standard from which they should evaluate complaints.

B. AFFH Helps Maryland and Other Local Communities Reduce Residential Housing Segregation.

Just as disparate impact has long been a tool used to help decrease racial segregation in housing, so has the AFFH obligation under the federal Fair Housing Act. The federal Fair Housing Act's AFFH provision requires U.S. Housing and Urban Development (HUD) funding recipients to proactively take measures to foster inclusive communities, help remedy years of segregation and its consequences, and eliminate barriers to housing choice, in addition to combatting discrimination. While Maryland law has long required DHCD to ensure cities, states, and housing authorities AFFH, the agency has not issued regulations laying out how that obligation should be implemented.

AFFH has helped create fair and affordable housing opportunities and stronger, more viable neighborhoods for communities of color, low-income residents, and other groups across the country, including in Maryland. In the 1990s, LDF, the ACLU of Maryland, and other co-counsel sought to eradicate the legacy of racially segregated public housing in Baltimore, Maryland.²³ The lawsuit sought to show that HUD and the Baltimore region's public housing authorities discriminated against Black households and failed to affirmatively further fair housing by never offering low-income Black residents a meaningful opportunity to live in non-segregated areas of the Baltimore region. After years of litigation, a federal judge ruled that HUD violated the federal Fair Housing Act and had not affirmatively furthered fair housing by unfairly concentrating Black public housing residents in the most impoverished, segregated areas of Baltimore City.²⁴ The judge found HUD's programs "failed to achieve significant desegregation" in the Baltimore region. The settlement of the *Thompson* case included a number of key initiatives that have positively impacted many Maryland residents, including regional housing opportunities for low-income households in areas of opportunity in Baltimore City and the five surrounding counties.²⁵ The settlement also required HUD to provide

²³ NAACP Legal Defense Fund, Economic Justice: Case: *Thompson v. HUD*, (2012), <https://www.naacpldf.org/case-issue/thompson-v-hud/>

²⁴ *Id.*

²⁵ *Id.*

incentives for private housing developers to include affordable units for families when federally-insured, market-rate developments are built in communities of opportunity throughout the Baltimore Region.²⁶

Strengthening AFFH in Maryland will improve outcomes for all residents. Providing affordable and accessible housing in all communities, including well-resourced neighborhoods, and ensuring every neighborhood has access to resources like high-performing schools can be a powerful mechanism for increasing upward economic mobility for low-income households and breaking the cycle of intergenerational poverty. Research has shown that adults living in neighborhoods with lower poverty and more-educated neighbors experience better outcomes in employment, income, and physical health.²⁷ Children living in these neighborhoods experience better educational outcomes.²⁸

AFFH is an essential tool to addressing housing discrimination and decreasing residential segregation. SB 274 allows for DHCD to issue regulations related to AFFH in Maryland. Its passage will ensure the continuation of a robust infrastructure for regional collaboration around fair housing planning that started after the *Thompson* case. Permitting DHCD to issue AFFH regulations will give local jurisdictions more guidance and planning tools needed to identify and address fair housing challenges.

III. SB274 Is Urgently Needed Now that the Trump Administration Has Abandoned Longstanding Federal Fair Housing Regulations.

The Trump administration has rolled back guidance and key federal regulations that help prevent housing discrimination. These harmful changes include the administration's proposed termination of federal disparate impact regulations and their implementation of severely weakened AFFH rules. The Trump administration has also refused to investigate disparate impact discrimination cases and closed investigations and consent decrees involving disparate impact claims, even if they also included intentional discrimination claims.²⁹ While these actions do not change the federal Fair Housing Act, these rollbacks will make it harder for Maryland residents to challenge discriminatory housing policies while weakening Maryland's tools for taking proactive steps to combat housing discrimination and overcome patterns of housing segregation. Maryland needs to act now to help protect Maryland residents from the Trump administration's dangerous roll back of federal fair housing laws.

In April 2025, President Trump signed an executive order directing all federal agencies to eliminate disparate impact protections. In response, HUD dismissed investigations and rescinded guidance related to disparate impact. In January 2026, HUD proposed rescinding its long-standing regulations governing disparate impact liability under the federal Fair Housing Act. HUD's decision to withdraw guidance and rescind regulations means it will no longer rely on those positions for its own enforcement actions. Although HUD's guidance is not binding and cannot change or overrule court decisions, rescinding guidance documents removes an

²⁶ Id.

²⁷ Margery Austin Turner, et al, *Benefits of Living in High Opportunity Neighborhoods; Insights from the Moving to Opportunity Demonstration*, The Urban Institute, (September 2012), <https://www.urban.org/sites/default/files/publication/32821/412648-Benefits-of-Living-in-High-Opportunity-Neighborhoods.PDF>

²⁸ Id.

²⁹ Maxwell Evans, *Trump Administration Drops Civil Rights Cases On Environmental Justice, Affordable Housing*, Block Club Chicago, (August 8, 2025), <https://blockclubchicago.org/2025/08/08/trump-administration-drops-civil-rights-cases-on-environmental-justice-affordable-housing/>

important tool to help renters, homeowners, and landlords understand what is lawful under the Fair Housing Act and other federal laws.

Similarly, in May 2025, HUD rescinded its 2021 AFFH regulations, including key definitions, and replaced them with regulations that do not provide state and local jurisdictions with the tools needed to effectively affirmatively further fair housing. The 2025 Trump administration AFFH rule deprives state and local governments of meaningful planning tools needed to identify and address fair housing challenges. The 2025 AFFH rule also repealed the clear, strong definition of AFFH in the 2021 rule, which specified the duty to affirmatively further fair housing requires program participants to “consider existing segregation, including racial segregation, and other barriers to fair housing, and then take meaningful action to address them.”³⁰ This rollback will only worsen the fair and affordable housing crisis by taking important tools away from states and localities from addressing housing inequities.

Maryland must take action to protect its residents through state-level protections. SB 274 pushes back against the Trump administration’s blatant attempt to undermine housing discrimination and weaken regulations related to reducing housing segregation. SB 274 explicitly codifies disparate impact liability into state law so Maryland residents retain the right to file a state disparate impact claim in state court. Additionally, SB 274 allows for DHCD to issue regulations related to AFFH, filling the gap left by the Trump administration’s weakened AFFH rules.

IV. Conclusion

The state’s adoption of SB 274 would strengthen state fair housing laws by codifying existing protections against policies that have unjustified discriminatory effects. It would also give DHCD the authority to provide more guidance to counties, cities, and housing authorities about the proactive steps they can take to combat housing discrimination and overcome patterns of housing segregation. The Trump administration has abandoned longstanding federal regulations related to fair housing and has, instead, begun to pick and choose which fair housing laws it will enforce. These actions will hurt all Marylanders, but Black Marylanders and other marginalized communities will be harmed the most. Passage of SB 274 would increase protections for all Maryland residents while pushing back against the Trump administration’s attempt to prevent fair housing discrimination enforcement. LDF urges the Judicial Proceedings Committee to give a favorable report on SB 274.

Thank you for the opportunity to testify. If you have any questions, please contact David Wheaton, Assistant Policy Counsel, at dwheaton@naacpldf.org or Demetria L. McCain, Director of Policy, at dmccain@naacpldf.org.

³⁰ Affirmatively Furthering Fair Housing Rule, 80 FR 42272, (July 16, 2015), <https://www.federalregister.gov/documents/2015/07/16/2015-17032/affirmatively-furthering-fair-housing>; Restoring Affirmatively Furthering Fair Housing Definitions and Certifications, 86 Fed. Reg. 30,779 (June 10, 2021)