



**Senate Bill 274**  
**Fair Housing and Housing Discrimination - Regulations, Intent, and Discriminatory Effect**  
Hearing before the Senate Judicial Proceedings Committee  
February 3, 2026

**Position: Favorable**

*Maryland Legal Aid submits its written testimony on SB 274 at the request of the bill sponsor Senator Charles Sydnor.*

Maryland Legal Aid is a non-profit law firm that provides free civil 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 legal matters for Marylanders, including those confronting unfair and discriminatory housing practices. Our clients are critically impacted by the affordability crisis, and ensuring they have equal and fair access to housing is a significant portion of our work.

SB 274 would codify important fair housing standards into Maryland law. Given the federal government's active efforts to abandon these civil rights mechanisms, this is a critical moment to ensure Maryland residents' fair housing rights remain protected. This bill provides precise definitions and legal standards for "disparate impact" discrimination claims under Maryland's fair housing law. It also makes clear that the Department of Housing and Community Development can provide guidance on existing obligations to affirmatively further fair housing. Maryland Legal Aid strongly supports our State's efforts to uphold the rule of law and break down barriers to pursuing growth and affordability. We urge the Committee to affirm these longstanding civil rights principles in our statutes and favorably report on SB 274.

***Disparate impact claims are an important civil rights enforcement tool.***

It is unlawful to discriminate against a person because of their membership in a protected class. In Maryland, this includes a person's race, color, religion, sex, disability, marital status, familial status, sexual orientation, gender identity, national origin, source of income, or military status.<sup>1</sup> There are two primary ways courts assess whether discrimination has occurred: disparate treatment and disparate impact. Disparate impact embodies the understanding that discriminatory *intent* is not the only way that discrimination can and does occur. It recognizes that landlords, realtors, lenders, and other actors may be liable for unlawful discriminatory *effects* of their policies or acts. "That is, if you assign a test of flight to a bird and a fish, you will have treated them the same, but the impact of the facially equal treatment discriminates against the fish."<sup>2</sup> Importantly, disparate impact liability only

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<sup>1</sup> Md. Code Ann., State Government Art. § 20-702(a).

<sup>2</sup> *Hare v. David S. Brown Enters., Ltd.*, 491 Md. 653, 673 (2025).

applies to policies and acts that create “artificial, arbitrary, and unnecessary barriers, not policies that are necessary to achieve a valid interest.”<sup>3</sup>

***Maryland’s Affirmatively Furthering Fair Housing laws need a clear mechanism for DHCD to issue regulations.***

The Fair Housing Act of 1968 instructs all federal executive departments and agencies, including but not limited to the U.S. Department of Housing and Urban Development (HUD), to affirmatively further the purposes of the Fair Housing Act.<sup>4</sup> In 2021, Maryland adopted similar obligations for our State Department of Housing and Community Development (DHCD), political subdivisions, and housing authorities.<sup>5</sup> Municipalities and counties must develop comprehensive plans that include an assessment of fair housing and a description of local actions that foster and maintain compliance with civil rights and fair housing laws. SB 274 clarifies that DHCD may adopt regulations to carry out these existing requirements. This authority is important, as it gives the agency with specialized knowledge the ability to provide targeted guidance and resources on how communities can take meaningful actions to overcome patterns of concentrated poverty and segregation.

***SB 274 affirms Maryland’s commitments to inclusion, fairness, and upholding the rule of law. It would enshrine clear and well-tested fair housing standards for Marylanders, which is critical as the current federal administration attempts to dismantle these longstanding legal principles.***

Affirming our commitment to clear and established standards for identifying and ending discrimination is especially critical in housing. Maryland’s longstanding history of redlining and segregation necessitates conscious action to correct the effects of centuries of discriminatory practices. The present affordability crisis raises the stakes, making it even more essential to remove discriminatory barriers to finding and keeping a home.

The United States Supreme Court has consistently recognized the validity of proving discrimination through disparate impact claims, including under the Fair Housing Act.<sup>6</sup> Just last year, the Supreme Court of Maryland ruled that disparate impact claims are also validly brought under Maryland’s fair housing laws.<sup>7</sup> In that ruling, the Court adopted the same legal standard that federal courts have applied for decades in disparate impact cases—the very framework provided in SB 274. Codifying these well-established judicial standards in Maryland statute would ensure stability and consistency in how these claims are evaluated.

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<sup>3</sup> *Id.* at 491 Md. 681, quoting *Texas Dep’t of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 540-41 (2015) (emphasis added; internal quotation marks omitted).

<sup>4</sup> 42 U.S.C. § 3608(d), (e)(5).

<sup>5</sup> Md. Code Ann., Hous. & Cmty. Dev. § 2-402.

<sup>6</sup> See *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), *Smith v. City of Jackson*, 544 U.S. 228 (2005), and *Texas Dep’t of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015) (finding disparate impact claims under the Fair Housing Act are valid).

<sup>7</sup> *Hare v. David S. Brown Enters., Ltd.*, 491 Md. 653, 680, 340 A.3d 698, 714 (2025).

This is a key moment to provide all Marylanders with a clear and reliable statement of our fair housing protections. The federal fair housing landscape is caught in a tug-of-war between the current federal administration and those who seek to uphold decades of precedent. In 2013, HUD published a rule to formalize the agency’s interpretation of disparate impact liability under the Fair Housing Act.<sup>8</sup> In 2015, HUD published a long-anticipated Affirmatively Furthering Fair Housing (AFFH) rule, which provided resources for local jurisdictions to meet their federal obligations.<sup>9</sup> In 2018, the first Trump administration began its roll-back of the 2015 AFFH regulations.<sup>10</sup> In 2020, the Trump administration rolled back the 2013 disparate impact rule.<sup>11</sup> In 2023 the Biden administration restored the disparate impact rule<sup>12</sup> and proposed a new AFFH rule.<sup>13</sup> Now, the current Trump administration again seeks to roll back the disparate impact<sup>14</sup> and AFFH<sup>15</sup> rules.

SB 274 is an essential tool to uphold the rule of law and affirm Marylander’s civil rights protections.

***SB 274 codifies two key civil rights tools that provide critical protections for Marylanders: clear standards for disparate impact discrimination claims and a mechanism for DHCD to ensure Maryland communities are affirmatively furthering fair housing.***

Civil rights protections are crucial to cultivating the diverse and inclusive communities that Maryland prides itself on. Existing protections against disparate impact discrimination have been essential in redressing the harms of segregation and remain a key tool for addressing Maryland’s housing crisis, especially for marginalized communities. For example, a disparate impact legal theory was central to *Thompson v. HUD*, the landmark civil rights case that challenged decades of racial segregation in Baltimore City public housing and led to the Baltimore Housing Mobility Program.<sup>16</sup> Disparate impact claims have also been essential in protecting access to housing for

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<sup>8</sup> 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).”)

<sup>9</sup> Affirmatively Furthering Fair Housing, 80 Fed. Reg. 42272, July 16, 2015, <https://www.federalregister.gov/documents/2015/07/16/2015-17032/affirmatively-furthering-fair-housing>.

<sup>10</sup> Affirmatively Furthering Fair Housing: Extension of Deadline for Submission of Assessment of Fair Housing for Consolidated Plan Participants, 83 Fed. Reg. 683 (Jan. 5, 2018).

<sup>11</sup> HUD’s Implementation of the Fair Housing Act’s Disparate Impact Standard, 85 FR 60288 (Sept. 24, 2020).

<sup>12</sup> Reinstatement of HUD’s Discriminatory Effects Standard, 88 FR 19450 (Mar. 21, 2023).

<sup>13</sup> Affirmatively Furthering Fair Housing, 88 FR 8516 (Feb. 9, 2023).

<sup>14</sup> HUD’s Implementation of the Fair Housing Act’s Disparate Impact Standard, 91 FR 1475 (Jan. 14, 2026)

<sup>15</sup> Affirmatively Furthering Fair Housing Revisions, 90 FR 11020 (Mar. 3, 2025).

<sup>16</sup> *Thompson v. U.S. Dep’t of Hous. & Urb. Dev.*, 348 F. Supp. 2d 398 (D. Md. 2005).

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disabled Marylanders, ensuring the availability of accessible housing units<sup>17</sup> and preventing unjust fees arising from the use of disability aids and accommodations.<sup>18</sup> In addition, the Maryland Supreme Court relied on a disparate impact legal theory in *Hare v. David S. Brown Enterprises, Ltd.*, to protect Housing Choice Vouchers recipients from being discriminated against because of their source of income.<sup>19</sup> Maryland Legal Aid clients rely on disparate impact claims to enforce their rights. One Baltimore County family needed to relocate unexpectedly to obtain housing that was accessible for the client's recently acquired disability. Generally applicable early termination fees would have prevented this client from moving before their lease expired. By raising the disparate impact those fees impose on people with disabilities like our client, this family will now be able to promptly relocate to an accessible dwelling rather than being arbitrarily trapped in inaccessible housing until their lease is up.

Ensuring that DHCD can promulgate guidance on how to affirmatively further fair housing is also essential to Maryland's housing growth goals. Local jurisdictions and housing authorities are already assessing and implementing fair housing goals under Maryland law. As the state works to address the affordability crisis by increasing housing supply and lowering costs, clear regulations are necessary to ensure fair housing principles are followed.

This is a moment to retain and bolster all of the tools we have to combat discrimination and protect the most vulnerable members of our communities. We face a destructive era in federal policy that could leave Maryland residents with little or no ability to hold bad actors accountable for discriminatory housing practices at the federal level. SB 274's clear adoption of state-level standards for addressing disparate impact discrimination and adopting fair housing regulations ensures that Marylanders will continue to have access to meaningful civil rights enforcement in our state courts. SB 274 does not create new policies, causes of action, or penalties. It does not add new protected classes. It simply codifies longstanding civil rights standards, preserving and sending a clear affirmation of Maryland's commitment to inclusion for generations to come.

For these reasons, **Maryland Legal Aid urges the Committee's favorable report on SB 274.**

If you have any questions, please contact:

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<sup>17</sup> U.S. Dep't of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Voluntary Compliance Agreement Between the U.S. Dep't of Housing and Urban Development and The Housing Authority of Prince George's County, Maryland, Jun. 10, 2020.

<sup>18</sup> *E.g., United States v. California Mobile Home Park Mgmt. Co.*, 29 F.3d 1413 (9th Cir. 1994); *Samuelson v. Mid-Atlantic Realty Co.*, 947 F. Supp. 756, 761 (D. Del. 1996).

<sup>19</sup> 491 Md. 653, 340 A.3d 698 (2025).

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