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By: **Senator McFadden**

Introduced and read first time: February 14, 2003

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Housing - Discrimination Based on Source of Income - Prohibited**

3 FOR the purpose of prohibiting discriminatory practices in residential housing based  
4 on source of income under certain circumstances; defining certain terms; and  
5 generally relating to a prohibition against discriminatory practices in  
6 residential housing based on source of income.

7 BY repealing and reenacting, with amendments,  
8 Article 49B - Human Relations Commission  
9 Section 19 through 23  
10 Annotated Code of Maryland  
11 (1998 Replacement Volume and 2002 Supplement)

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

14 **Article 49B - Human Relations Commission**

15 19.

16 (a) It is the policy of the State of Maryland to provide for fair housing  
17 throughout the State of Maryland, to all its citizens, regardless of race, color, religion,  
18 sex, familial status, national origin, marital status, sexual orientation, [or] disability,  
19 OR SOURCE OF INCOME; and to that end to prohibit discriminatory practices with  
20 respect to residential housing by any person or group of persons, in order that the  
21 peace, health, safety, prosperity and general welfare of all the inhabitants of the State  
22 may be protected and insured.

23 (b) This law shall be deemed an exercise of the police power of the State of  
24 Maryland for the protection of the people of the State, and shall be administered and  
25 enforced by the State of Maryland Commission on Human Relations and, as provided  
26 in this subtitle, be enforced by the appropriate State court.

27 20.

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

1 (b) "Aggrieved person" means any person who claims to have been injured by  
2 a discriminatory housing practice.

3 (C) "ASSISTED RENTAL HOUSING DEVELOPMENT" MEANS A DEVELOPMENT  
4 CONSISTING OF FOUR OR MORE CONTIGUOUS RENTAL DWELLING UNITS IN WHICH  
5 20% OR MORE OF THE DWELLING UNITS ARE RENTED OR MUST BE MADE AVAILABLE  
6 FOR RENT TO HOUSEHOLDS OF LOW INCOME PURSUANT TO A FEDERAL, STATE, OR  
7 LOCAL GOVERNMENT HOUSING ASSISTANCE PROGRAM.

8 [(c)] (D) "Complainant" means the person who files a complaint of a  
9 discriminatory housing practice under this article.

10 [(d)] (E) "Conciliation" means the attempted resolution of issues raised by a  
11 complaint, or by the investigation of a complaint through informal negotiations  
12 involving the aggrieved person, the respondent, and the Commission.

13 [(e)] (F) "Conciliation agreement" means a written agreement setting forth  
14 the resolution of the issues in conciliation.

15 [(f)] (G) "Covered multifamily dwelling" means:

16 (1) A building consisting of 4 or more units, if the building has 1 or more  
17 elevators; or

18 (2) A ground floor unit in a building consisting of 4 or more units, if the  
19 building has no elevator.

20 [(g)] (H) "Discriminatory housing practice" means an act that is unlawful  
21 under § 22, § 23, or § 24 of this subtitle.

22 [(h)] (I) "Dwelling" means any building, structure, or portion thereof which is  
23 occupied as, or designed or intended for occupancy as a residence by one or more  
24 families, and any vacant land which is offered for sale or lease for the construction or  
25 location thereon of any such building, structure, or portion thereof.

26 [(i)] (J) (1) "Familial status" means the status of 1 or more individuals who  
27 are under age 18 and being domiciled with:

28 (i) A parent or other person having legal custody of the individual;  
29 or

30 (ii) The designee of a parent or other person having legal custody of  
31 the individual, with the written permission of the parent or other person.

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

33 (i) A pregnant woman; or

34 (ii) An individual who is in the process of securing legal custody of  
35 an individual under age 18.

1        [(j)]    (K)    "Family" includes a single individual.

2        [(k)]    (L)    (1)    "Disability" means for an individual:

3                    (i)    A disability that substantially limits 1 or more of an individual's  
4 major life activities;

5                    (ii)   A record of having a disability that substantially limits 1 or  
6 more of an individual's major life activities; or

7                    (iii)   Being regarded as having a disability that substantially limits 1  
8 or more of an individual's major life activities.

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

10                    (i)    A controlled dangerous substance defined in § 5-101 of the  
11 Criminal Law Article; or

12                    (ii)   A controlled substance defined in § 102 of the Federal  
13 Controlled Substances Act (21 U.S.C. 802).

14        [(l)]    (M)    (1)    "Housing for older persons" means housing:

15                    (i)    Provided under any State or federal program that is specifically  
16 designed and operated to assist elderly persons, as defined in the State or federal  
17 program;

18                    (ii)   Intended for, and solely occupied by, persons 62 years of age or  
19 older;

20                    (iii)   Intended and operated for occupancy by at least 1 person 55  
21 years of age or older per unit; or

22                    (iv)   That meets the requirements set out in regulations adopted by  
23 the Secretary of the U.S. Department of Housing and Urban Development under Title  
24 42, § 3607(b)(2)(C) of the U.S. Code (federal Fair Housing Act).

25                    (2)    "Housing for older persons" includes:

26                    (i)    Unoccupied units, if the units are reserved for occupancy by  
27 individuals who meet the age requirements of paragraph (1) of this subsection; or

28                    (ii)   Units occupied as of September 13, 1988 by individuals who do  
29 not meet the age requirements of paragraph (1) of this subsection, if the new occupant  
30 of the unit meets the age requirement.

31        [(m)]    (N)    "In the business of selling or renting a dwelling" means:

32                    (1)    Within the preceding 12 months, participated as principal in 3 or  
33 more transactions involving the sale or rental of any dwelling or of any interest in a  
34 dwelling; or

1           (2)     Within the preceding 12 months, participated as an agent, other than  
2 in the sale of the individual's own personal residence, in providing sales or rental  
3 facilities or services in 2 or more transactions involving the sale or rental of any  
4 dwelling or any interest in a dwelling; or

5           (3)     Being the owner of any dwelling designed or intended for occupancy  
6 by, or occupied by, 5 or more families.

7     [(n)]   (O)     "Marital status" means the state of being single, married, separated,  
8 divorced, or widowed.

9     [(o)]   (P)     "Person" includes one or more individuals, corporations,  
10 partnerships, associations, labor organizations, legal representatives, mutual  
11 companies, joint-stock companies, trusts, unincorporated organizations, trustees,  
12 trustees in bankruptcy, receivers and fiduciaries.

13   [(p)]   (Q)     "Prevailing party" has the meaning stated in 42 U.S.C. § 1988.

14   [(q)]   (R)     "To rent" includes to lease, to sublease, to let or otherwise to grant for  
15 a consideration the right to occupy premises not owned by the occupant.

16   [(r)]   (S)     "Residential real estate related transaction" means:

17           (1)     The making or purchasing of loans or providing other financial  
18 assistance:

19                 (i)     For purchasing, constructing, improving, repairing, or  
20 maintaining a dwelling; or

21                 (ii)    Secured by residential real estate; or

22           (2)     The selling, brokering, or appraising of residential real property.

23   [(s)]   (T)     (1)     "Respondent" means a person accused in a complaint of a  
24 discriminatory housing practice.

25           (2)     "Respondent" includes a person identified during an investigation of  
26 a complaint and joined as an additional or substitute respondent under this subtitle.

27   [(t)]   (U)     "Restrictive covenants" means any specification limiting the transfer,  
28 rental, or lease of any dwelling because of race, color, religion, marital status, sexual  
29 orientation, sex, familial status, disability, [or] national origin, OR SOURCE OF  
30 INCOME.

31   [(u)]   (V)     "Sexual orientation" means the identification of an individual as to  
32 male or female homosexuality, heterosexuality, or bisexuality.

33   (W)     "SOURCE OF INCOME" MEANS ANY LAWFUL SOURCE OF MONEY PAID  
34 DIRECTLY OR INDIRECTLY TO A RENTER OR BUYER OF HOUSING, INCLUDING:

35           (1)     ANY LAWFUL PROFESSION OR OCCUPATION;

1 (2) ANY GOVERNMENT OR PRIVATE ASSISTANCE, GRANT, LOAN, OR  
2 RENTAL ASSISTANCE PROGRAM, INCLUDING LOW-INCOME HOUSING ASSISTANCE  
3 CERTIFICATES AND VOUCHERS UNDER THE U.S. HOUSING ACT OF 1937, 42 U.S.C. §  
4 1437F;

5 (3) ANY GIFT, INHERITANCE, PENSION, ANNUITY, ALIMONY, CHILD  
6 SUPPORT, OR OTHER CONSIDERATION OR BENEFIT; AND

7 (4) ANY SALE OR PLEDGE OR PROPERTY OR INTEREST IN PROPERTY.

8 21.

9 (a) This subtitle does not apply to:

10 (1) The sale or rental of a single family dwelling, if the dwelling is sold or  
11 rented without:

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

13 1. Real estate broker, agent, or salesman;

14 2. Agent of any real estate broker, agent, or salesman;

15 3. Person in the business of selling or renting dwellings; or

16 4. Agent of a person in the business of selling or renting

17 dwellings; or

18 (ii) The publication, posting, or mailing, after notice, of any  
19 advertisement or written notice in violation of this subtitle; and

20 (2) With respect to discrimination on the basis of sex, sexual orientation,  
21 or marital status:

22 (i) The rental of rooms in any dwelling, if the owner maintains the  
23 dwelling as the owner's principal residence; or

24 (ii) The rental of any apartment in a dwelling that contains no more  
25 than 5 rental units, if the owner maintains the dwelling as the owner's principal  
26 residence.

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

31 (c) This subtitle may not be construed to invalidate or limit any law of a  
32 political subdivision of the State that requires dwellings to be designed and  
33 constructed in a manner that affords an individual with a disability greater access  
34 than is required by § 22(b) of this subtitle.

1 (d) Nothing in this subtitle requires that a dwelling be made available to an  
2 individual whose tenancy:

3 (1) Would constitute a direct threat to the health or safety of other  
4 individuals; or

5 (2) Would result in substantial physical damage to the property of  
6 others.

7 (e) Nothing in this subtitle shall prohibit a religious organization, association,  
8 or society or any nonprofit institution or organization operated, supervised, or  
9 controlled by or in conjunction with a religious organization, association, or society  
10 from limiting the sale, rental or occupancy of dwellings that it owns or operates for  
11 other than a commercial purpose to persons of the same religion, or from giving  
12 preference to these persons, unless membership in the religion is restricted on  
13 account of race, color, or national origin.

14 (f) Nothing in this subtitle shall prohibit a private club not in fact open to the  
15 public, which as an incident to its primary purpose or purposes provides lodgings that  
16 it owns or operates for other than a commercial purpose, from limiting the rental or  
17 occupancy of the dwellings to its members or from giving preference to its members.

18 (g) Nothing in this subtitle limits the applicability of any reasonable local,  
19 State, or federal restrictions regarding the maximum number of occupants permitted  
20 to occupy a dwelling.

21 (h) The provisions in this subtitle that deal with familial status do not apply to  
22 housing for older persons as defined in § 20 of this subtitle.

23 (i) Nothing in this subtitle prohibits conduct against a person because the  
24 person has been convicted by a court of competent jurisdiction of the illegal  
25 manufacture or distribution of a controlled substance, as defined in Title 21, § 802 of  
26 the U.S. Code, or a controlled dangerous substance as defined in § 5-101 of the  
27 Criminal Law Article.

28 (j) (1) In this subsection, "group home" has the meaning stated in Article  
29 83B, § 2-701(c) of the Code.

30 (2) Nothing in this subtitle shall prohibit the State or a local government  
31 from enacting standards that govern the placement of group homes.

32 (K) THE PROHIBITIONS IN THIS SUBTITLE AGAINST DISCRIMINATION BASED  
33 ON SOURCE OF INCOME DO NOT:

34 (1) PROHIBIT A PERSON FROM DETERMINING THE ABILITY OF A  
35 POTENTIAL BUYER OR RENTER TO PAY A PURCHASE PRICE OR PAY RENT BY:

36 (I) VERIFYING, IN A COMMERCIALY REASONABLE MANNER, THE  
37 SOURCE AND AMOUNT OF INCOME OF THE POTENTIAL BUYER OR RENTER; OR

1 (II) EVALUATING, IN A COMMERCIALLY REASONABLE MANNER,  
2 THE STABILITY, SECURITY, AND CREDITWORTHINESS OF THE POTENTIAL BUYER OR  
3 RENTER OR ANY SOURCE OF INCOME OF THE POTENTIAL BUYER OR SELLER;

4 (2) PREVENT A PERSON FROM REFUSING TO CONSIDER INCOME  
5 DERIVED FROM ANY CRIMINAL ACTIVITY;

6 (3) APPLY TO LANDLORDS WHO OWN FOUR OR FEWER RENTAL UNITS IN  
7 THE STATE; OR

8 (4) APPLY TO AN ASSISTED RENTAL HOUSING DEVELOPMENT.

9 22.

10 (a) Except as provided in § 21 of this subtitle, it is unlawful:

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

15 (2) To discriminate against any person in the terms, conditions, or  
16 privileges of sale or rental of a dwelling, or in the provision of services or facilities in  
17 connection with the sale or rental of a dwelling, because of race, color, religion, sex,  
18 disability, marital status, familial status, sexual orientation, [or] national origin, OR  
19 SOURCE OF INCOME;

20 (3) To make, print, or publish, or cause to be made, printed, or published  
21 any notice, statement, or advertisement, with respect to the sale or rental of a  
22 dwelling that indicates any preference, limitation, or discrimination based on race,  
23 color, religion, sex, disability, marital status, familial status, sexual orientation, [or]  
24 national origin, OR SOURCE OF INCOME or an intention to make any preference,  
25 limitation, or discrimination;

26 (4) To represent to any person because of race, color, religion, sex,  
27 disability, marital status, familial status, sexual orientation, [or] national origin, OR  
28 SOURCE OF INCOME that any dwelling is not available for inspection, sale, or rental  
29 when the dwelling is in fact available;

30 (5) For profit, to induce or attempt to induce any person to sell or rent  
31 any dwelling by representations regarding the entry or prospective entry into the  
32 neighborhood of a person or persons of a particular race, color, religion, sex, disability,  
33 marital status, familial status, sexual orientation, [or] national origin, OR SOURCE  
34 OF INCOME;

35 (6) To discriminate in the sale or rental, or otherwise make unavailable  
36 or deny, a dwelling to any buyer or renter because of a disability of:

37 (i) The buyer or renter; or

1 (ii) A person residing in or intending to reside in the dwelling after  
2 it is so sold, rented, or made available;

3 (7) To discriminate against any person in the terms, conditions, or  
4 privileges of sale or rental of a dwelling, or in the provision of services or facilities in  
5 connection with the dwelling, because of a disability of:

6 (i) The person; or

7 (ii) A person residing in or intending to reside in the dwelling after  
8 it is so sold, rented, or made available;

9 (8) To refuse to permit, at the expense of the person with a disability,  
10 reasonable modifications of existing premises occupied or to be occupied by the  
11 individual if:

12 (i) The modifications may be necessary to afford the person with a  
13 disability full enjoyment of the dwelling; and

14 (ii) For a rental dwelling, the tenant agrees, at the tenant's  
15 expense, to restore, reasonable wear and tear excepted, the interior of the dwelling to  
16 the condition that existed before the modification on vacating the dwelling;

17 (9) To refuse to make reasonable accommodations in rules, policies,  
18 practices, or services when the accommodations may be necessary to afford an  
19 individual with a disability equal opportunity to use and enjoy a dwelling; or

20 (10) To fail to design or construct a covered multifamily dwelling for first  
21 occupancy as required under subsection (b) of this section.

22 (b) (1) On or after July 1, 1991, a covered multifamily dwelling for first  
23 occupancy shall be designed and constructed so that:

24 (i) The public use and common use portions of such dwellings are  
25 readily accessible to and usable to individuals with disabilities;

26 (ii) All the doors designed to allow passage into and within all  
27 premises within the dwelling are sufficiently wide to allow passage by individuals  
28 with disabilities in wheelchairs; and

29 (iii) All premises within the dwellings contain the following features  
30 of adaptive design:

31 1. An accessible route into and through the dwelling;

32 2. Light switches, electrical outlets, thermostats, and other  
33 environmental controls in accessible locations;

34 3. Reinforcements in bathroom walls to allow later  
35 installation of grab bars; and



