HB 928

Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 928 (Delegate McMillan)
Environmental Matters

Housing - Discrimination Based on Source of Income - Prohibitions

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This bill prohibits discriminatory practices in the sale or rental of a dwelling because of a person's source of income.

Fiscal Summary

State Effect: Any additional workload for the Department of Housing and Community Development, the Maryland Commission on Human Relations, the Judiciary, or the Office of the Attorney General can be handled with existing budgeted resources. Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill prohibits taking the following actions because of a person's source of income:

- refusing to sell or rent a dwelling after the making of a bona fide offer;
- refusing to negotiate for the sale or rental of a dwelling;
- making a dwelling otherwise unavailable;

- discriminating in the terms, conditions, or privileges of sale or rental of a dwelling;
- discriminating in the provision of services or facilities in connection with the sale or rental of a dwelling;
- making, printing, or publishing or causing to be made, printed, or published any notice, statement, or advertisement with respect to a dwelling that indicates a preference, limitation, or discrimination based on source of income;
- representing to a person that a dwelling is not available for inspection, sale, or rental when it is available; and
- for profit, inducing or attempting to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons with a particular source of income.

The bill prohibits a person whose business includes engaging in residential real estate related transactions from discriminating against a person in making available a transaction, or in the terms or conditions of a transaction, because of the person's source of income. However, a real estate appraiser may take into consideration factors other than source of income.

The bill prohibits a person from, because of a person's source of income, denying that person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminating against a person in the terms or conditions of membership or participation.

The bill also prohibits any person, whether or not acting under color of law, by force or threat of force, from willfully injuring, intimidating, or interfering with a person's activities related to the sale, purchase, rental, or occupation of a dwelling, or to attempt to do so. Existing criminal penalties relating to these activities are expanded to include the prohibition against discrimination based on source of income.

Under the bill, a "source of income" is any lawful, verifiable source of money paid to a person, including (1) a salary from any lawful profession or occupation; and (2) any inheritance, pension, annuity, alimony, child support, or direct payment benefit. In a rental transaction, "source of income" means any lawful, verifiable source of money paid directly to a tenant or a tenant's representative (not including a landlord).

Under the bill, "discriminatory housing practice" does not include making a written or oral inquiry to verify a person's level or source of income.

Current Law: Housing discrimination because of race, sex, color, religion, national origin, marital status, familial status, or disability is prohibited. Chapter 340 of 2001 added sexual orientation to this list of prohibited forms of discrimination. There is no provision prohibiting housing discrimination based on source of income. Willfully injuring, intimidating, or interfering, by force or threat of force, with a person's activities related to the sale, purchase, rental, or occupation of a dwelling, or to attempt to do so, is a misdemeanor. A violator is subject to maximum penalties of one year imprisonment and/or a $1,000 fine. If the violation results in bodily injury, the maximum penalty is 10 years imprisonment and/or a $10,000 fine. If the violation results in death, the maximum penalty is life imprisonment.

Background: The Maryland Human Relations Commission received 75 complaints of discrimination in housing in fiscal 2010.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at $2,920 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including variable medical care and variable operating costs) is $390 per month. Excluding all medical care, the average variable costs total $170 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A $45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional $45 per day grant for inmates who have been sentenced to the custody of DOC but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A $45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional $45 per day grant for inmates who have been sentenced to the custody of DOC but are confined in a local facility. Per diem operating costs of local detention facilities are expected to range from $57 to $157 per inmate in fiscal 2012.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division), Department of Housing and Community Development, Human Relations Commission, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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