

Department of Legislative Services  
 Maryland General Assembly  
 2014 Session

FISCAL AND POLICY NOTE

House Bill 1098 (Delegate Niemann)  
 Environmental Matters

Housing Discrimination - Source of Income

This bill prohibits discriminatory practices in the sale or rental of a dwelling because of a person’s source of income. The bill establishes a process by which owners of housing developments may apply for and be granted an exemption against the prohibitions relating to source of income derived from housing assistance.

The bill applies prospectively only.

Fiscal Summary

**State Effect:** General fund expenditures increase by \$69,200 in FY 2015 for the Department of Housing and Community Development (DHCD) to hire one staff person to administer the exemption program. Future year expenditures reflect annualization and inflation. Any additional workload relating to the enforcement of the bill’s provisions can be handled within existing resources of impacted agencies, including the Maryland Commission on Civil Rights (MCCR). Potential minimal increase in general fund revenues from additional civil penalties.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	69,200	88,900	93,000	97,300	101,800
Net Effect	(\$69,200)	(\$88,900)	(\$93,000)	(\$97,300)	(\$101,800)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Potential minimal increase in expenditures for local housing agencies to develop an exemption program.

**Small Business Effect:** Minimal.

## Analysis

### **Bill Summary:**

#### *Prohibitions*

The bill prohibits taking the following actions because of a person's source of income: (1) refusing to sell or rent a dwelling after the making of a bona fide offer; (2) refusing to negotiate for the sale or rental of a dwelling; (3) making a dwelling otherwise unavailable; (4) discriminating in the terms, conditions, or privileges of sale or rental of a dwelling; (5) discriminating in the provision of services or facilities in connection with the sale or rental of a dwelling; (6) making, printing, or publishing or causing to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination based on source of income; (7) representing to a person that a dwelling is not available for inspection, sale, or rental when it is available; and (8) 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's provisions do not require that a dwelling be made available to an individual whose tenancy may reasonably be believed to constitute a threat to the health or safety of others based on the individual's prior behavior. The provisions also do not prohibit a person from verifying a potential buyer's or renter's source of income or amount of income in a commercially reasonable manner, including by performing credit, criminal, and other reference checks.

The bill establishes that statutory provisions do not apply with respect to discrimination on the basis of source of income if the source of income is housing assistance and in regards to a housing development that is owned or managed by a person who owns or manages no more than five dwelling units.

#### *Policy of the State*

The bill establishes that it is the policy of the State to encourage housing opportunities throughout the State, regardless of the source of a person's income and to avoid the concentration of low-income persons in any particular location or jurisdiction of the State.

### *Exemption Process*

The bill's authorizes an owner of a housing development to apply for an exemption to the housing coordination office in the jurisdiction in which the development is located by providing an affidavit made under penalty of perjury that the housing development meets specified criteria. To qualify for an exemption, by January 1 of the year in which the application is made, at least one of the following must be met: (1) 5% or more of the units in the housing development are rented to persons whose source of income is derived wholly or partly from housing assistance; (2) 25% or more of the rental units in the housing development are rented at or below 80% of the U.S. Department of Housing and Urban Development payment standard applicable to fair market rent in the housing development's location; (3) 5% or more of the units in the housing development are owned by or are being rented through or by not-for-profit organizations that provide housing to persons eligible for housing support under the organization's eligibility guidelines; or (4) the housing development is subject to housing assistance requirements under a federal, State, or local tax credit program.

The housing coordination office must evaluate and approve or disapprove an application within 30 days after the application is made. This period may be extended for an additional 30 days if the office needs additional information to evaluate the application. While an application is pending, the prohibitions relating to source of income derived from housing assistance are not enforceable against the owner of the housing development for which the application was made.

The housing coordination office may require the owner of the housing development to renew its application every three years. If an application is disapproved, the owner may appeal the decision to DHCD. While an appeal is pending, the prohibitions relating to source of income derived from housing assistance are not enforceable against the owner of the housing development.

### *Selected Definitions*

"Housing assistance" means (1) money paid directly to an owner or a seller by a unit of State or local government on behalf of an individual, including rental assistance program funds, low-income housing assistance certificates, and specified vouchers or (2) any incentive provided by an owner to veterans, first responders, teachers, students, or senior citizens.

"Housing coordination office" means the unit of State or local government that manages any housing assistance program in a jurisdiction, including the provision of low-income housing assistance certificates and specified vouchers.

“Housing development” means (1) a group of three or more related buildings that have the same owner or the same management and contain at least one dwelling unit or (2) one building containing four or more dwelling units that has the same owner or the same management for all of the dwelling units. “Housing development” includes an apartment complex or townhouse complex, an apartment, condominium, or a cooperative housing corporation building, and a mobile home park.

“Source of income” means any lawful verifiable source of money paid to a person, including (1) a salary paid from a lawful job, a profession, or an occupation; (2) an inheritance, a pension, an annuity, alimony, child support, or other benefit paid directly to an individual; or (3) housing assistance. “Source of income” does not include a gift, an interest in property, the sale or pledge of property, or an interest in property.

**Current Law:** Housing discrimination because of race, sex, color, religion, national origin, marital status, familial status, sexual orientation, or disability is prohibited. There is no provision prohibiting housing discrimination based on source of income.

A person claiming to have been injured by a discriminatory housing practice may file a complaint with MCCR or file a civil action in circuit court. If an administrative law judge (ALJ) finds that the respondent has engaged in a discriminatory housing practice, the ALJ may order appropriate relief, including actual damages and injunctive or other relief, and may assess a civil penalty against the respondent. A court may award actual or punitive damages, grant injunctive relief, and allow reasonable attorney’s fees and costs.

**Background:** MCCR received 89 complaints of housing discrimination in fiscal 2013.

**State Expenditures:** General fund expenditures increase by \$69,204 in fiscal 2015, which accounts for the bill’s October 1, 2014 effective date. This estimate reflects the cost of hiring one administrator within DHCD to coordinate the exemption process, which includes reviewing requests for exemptions and developing a process for appeals. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses

Position	1
Salary and Fringe Benefits	\$64,024
Operating Expenses	<u>5,180</u>
<b>Total FY 2015 State Expenditures</b>	<b>\$69,204</b>

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Housing and Community Development, Maryland Commission on Civil Rights, Judiciary (Administrative Office of the Courts), Maryland Association of Counties, Maryland Municipal League, Montgomery County, cities of Frederick and Havre de Grace, Department of Legislative Services

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