

SB687 Affirmatively Furthering Fair Housing.pdf

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Position: FAV



Maryland Consumer Rights Coalition

**Testimony to the Senate Education, Health, & Environmental Affairs Committee
SB 687: State and Local Housing Programs – Affirmatively Furthering Fair Housing
Position: Favorable**

February 9, 2021

The Honorable Paul Pinsky, Chair
Senate Education, Health, & Environmental Affairs Committee
2 West, Miller Senate Office Building
Annapolis, MD 21401
cc: Members, Education, Health, & Environmental Affairs Committee

Chair Pinsky and Members of the Committee:

The Maryland Consumer Rights Coalition (MCRC) is a statewide coalition that advances economic inclusion and financial justice through research, advocacy, consumer education, and direct service. MCRC leads fair housing work in Maryland through its recent adoption of the Fair Housing Action Center of Maryland (FHAC). FHAC works to ensure every Marylander has access to safe, affordable housing, free from discrimination, harassment, and code violations.

Maryland has a long legacy of housing discrimination. Our elected leaders spent decades perfecting policies designed to keep us apart based on the color of our skin. In 1910, Baltimore City pioneered the use of legislation to systematically separate people by race. When the law was struck down, restrictive covenants, redlining, blockbusting, and predatory lending sprang up to reinforce segregation. That effort is evident today -- Baltimore City remains as hypersegregated today as it was in 1968 when the federal Fair Housing Act was passed. Marylanders living in these segregated neighborhoods across the state often lack security, mobility, and economic opportunity. Fair housing must be pursued with even greater intentionality than segregation was because it involves dismantling the oppressive systems that are deeply encoded in our housing ecosystem. This bill charges DHCD, local housing authorities, and municipal governments with affirmatively furthering fair housing. It encodes a process through which Maryland jurisdictions will actively dismantle housing segregation through the creation of data-driven fair housing action plans. The process requires jurisdictions to analyze barriers to fair housing and make a concrete plan to address them. The bill doesn't specify goals or strategies, recognizing that community-driven solutions are most effective because they align with local values, strengths, and interests.

We urge Maryland leaders to require these proactive steps to deconcentrate poverty, combat discrimination and segregation, increase opportunities, and create more diverse communities by giving SB 687 a favorable report.

Best,

Robyn Dorsey
Fair Housing Director
Fair Housing Action Center of Maryland
Maryland Consumer Rights Coalition

Public Justice Ctr testimony SB 687 AFFH.pdf

Uploaded by: Hill, Matt

Position: FAV



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SB 687: State and Local Housing Programs – Affirmatively Furthering Fair Housing

Hearing before the Judicial Proceedings Committee, Feb. 9, 2021

Position: Favorable

Racial segregation and a lack of fair housing opportunity remain persistent, insidious forces of destruction in the state of Maryland. SB 687 provides a framework for the Dept. of Housing and Comm. Dev. (DHCD) and local jurisdictions to analyze barriers to fair housing opportunity, take data-driven steps to eliminate such barriers, and thereby foster thriving, integrated communities depending on the needs of the individual community.

A [recent study by the Baltimore Metropolitan Council](#) found that Black and white households in the Baltimore region have a “dissimilarity index” of 64.2. A “dissimilarity index” is a measure of segregation which compares where non-white residents live compared to white residents. A score of more than 55 = high segregation. The score of 64.2 has barely changed in the past 10 years, and so the Council concluded that “[t]he region remains segregated racially and economically due to past actions that caused and have perpetuated inequities.”

According to the Council’s report, state and local government played a significant role in creating this high level of segregation. Thus, state and local governments have a duty to remedy the consequences of their actions. The Council summarized this history as follows:

Like in many early U.S. cities, growth of heavy manufacturing in Baltimore City, which attracted new African American residents from more southern states and immigrants from abroad, prompted fears of encroachment into surrounding residential areas that were largely occupied by wealthier, White residents. The public sector attempted to implement racial zoning and other actions to promote segregation, and the private sector used deed restrictions toward the same end. Federal regulations that denied financial capital to many protected classes bolstered these local actions. Together, these discriminatory efforts resulted in neighborhoods that became highly segregated by race, ethnicity, and income.

Low-income, predominantly Black tenant-clients of the Public Justice Center know the consequences of this institutional racism too well: A true lack of housing that is affordable, habitable, and accessible in neighborhoods where you would want to raise your children.

While the federal government currently requires local jurisdictions to “affirmatively further fair housing” (AFFH) and has provided a framework in the past that is similar to HB 90, the federal AFFH framework has been a political football for more than 40 years. It was practically ignored by HUD for some time. The Obama Administration promulgated meaningful guidance to local jurisdictions on how to affirmatively further fair housing. The Trump Administration then rescinded that guidance. The lack of consistent federal guidance has stymied local jurisdictions in taking bold action to address barriers to fair housing. The lack of consistency has also stymied advocacy organizations such as the Public Justice Center in advocating for fair housing measures. **HB 90 will provide clear, consistent guidance to DHCD and local jurisdictions on how to analyze barriers to fair housing and implement measures to further fair housing regardless of who occupies the White House.**

The data and public reporting requirements in HB 90 will also prove invaluable to local jurisdictions, the General Assembly, and advocates in formulating and implementing public policies that too often fly blind at the moment. Also importantly, HB 90 does not require that the state or local jurisdictions implement one specific set of policies or programs. It does, however, require a thorough analysis of the barriers to fair housing and implementation of a set of concrete steps so that this issue can no longer be ignored.

Please issue a report of FAVORABLE on SB 687. If you have any questions, please contact Matt Hill, hillm@publicjustice.org, 410-625-9409, ext. 229.

SB0687_Fair_Housing_MLC_FAV.pdf

Uploaded by: Plante, Cecilia

Position: FAV



TESTIMONY FOR SB0687
STATE AND LOCAL HOUSING PROGRAMS – AFFIRMATIVELY FURTHERING FAIR
HOUSING

Bill Sponsor: Senator Smith

Committee: Education, Health, and Environmental Affairs

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0687 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

This bill gets at the spirit of the idea of fair housing. Our members fully support the idea of housing that supports individuals with disabilities and those who struggle financially. We feel that there needs to be more oversight on the Department of Housing and Community Development to ensure that they are effectively supporting their mandate and affirmatively furthering fair housing in the state.

Knowing how many people they support, what the demographics are, how much segregation is involved and what kind of racial and ethnic concentration is happening in areas of poverty as opposed to areas of opportunity are important pieces of information that will help evaluate the success of the program.

We won't know if the organizations that are tasked with providing fair housing are really doing the job effectively until we have this information. This bill is an important step in ensuring that the laws that we have created to serve some of our most needy citizens are being followed effectively and with their needs in mind.

We support this bill and recommend a **FAVORABLE** report in committee.

SB687_Written Support_DRM SUPPORT.pdf

Uploaded by: Prater, David

Position: FAV



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www.DisabilityRightsMD.org

Disability Rights Maryland

Senate Education, Health, and Environmental Affairs Committee

February 9, 2021

SB 687 – State and Local Housing Programs-Affirmatively Furthering Fair Housing POSITION: SUPPORT

Disability Rights Maryland (DRM – formerly Maryland Disability Law Center) is the federally designated Protection and Advocacy agency in Maryland, mandated to advance the civil rights of people with disabilities. DRM works to increase opportunities for Marylanders with disabilities to be part of their communities and live in safe, affordable and accessible housing.

DRM supports SB 687 as the data collected should result in developing concrete and specific actions from Maryland counties and the State to redress the segregation of people with disabilities, especially those of color. Under the federal Fair Housing Act,¹ and Maryland's Fair Housing Act,² the State has an obligation to affirmatively reduce the segregation of persons with disabilities created by decades of public policy. SB 687 would provide data that would be necessary to make that obligation a reality.

The lack of safe, decent, affordable, and accessible housing remains a significant barrier to people with disabilities moving from institutional settings to the community.³ Obtaining safe, affordable and accessible housing can provide the foundation for community integration, economic mobility, and improved quality of life for people with disabilities.⁴

However, individuals with disabilities continue to face disproportionately high levels of discrimination in housing. Disability discrimination complaints make-up 55%, the largest basis for complaints, made to federal, state and local agencies.⁵ Other reports reinforce the continued discrimination faced by people with disabilities in housing.⁶

Further, racial discrimination and discrimination against people with disabilities work in tandem. According to the CDC, one in four African-American adults have a disability compared to one in

¹ 42 U.S.C. 3608(d).

² Md. Ann. Code, State Gov't, 20-709.

³ See MARYLAND DEPARTMENT OF DISABILITIES, MARYLAND STATE DISABILITIES PLAN, 2016-2019 12-13 (2016), available at [http://mdod.maryland.gov/pub/Documents/post%20sdp%20\(1\).pdf](http://mdod.maryland.gov/pub/Documents/post%20sdp%20(1).pdf).

⁴ PUBLIC AND AFFORDABLE HOUSING RESEARCH CORPORATION. 2016. HOUSING IS A FOUNDATION: 2016 PAHRS REPORT. CHESHIRE, CT: HAI GROUP. https://www.novoco.com/sites/default/files/atoms/files/pahrc_2016_housing_report_080216.pdf

⁵ NATIONAL FAIR HOUSING ALLIANCE, THE CASE FOR FAIR HOUSING: 2017 FAIR HOUSING TRENDS REPORT. In FY 2020, 82% of all housing cases received by the Maryland Commission on Civil Rights alleged disability discrimination. MARYLAND STATE COMMISSION ON CIVIL RIGHTS, 2020 ANNUAL REPORT, available at https://mccr.maryland.gov/Documents/MCCR_AnnualReport2020_Digital_FINAL.pdf

⁶ EQUAL RIGHTS CENTER, DISCONNECTED: HOUSING DISCRIMINATION AGAINST THE DEAF AND HARD OF HEARING (2012), available at <https://deldhub.gacec.delaware.gov/pdf/Disconnected.pdf>; UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, OFFICE OF POLICY DEVELOPMENT AND RESEARCH, RENTAL HOUSING DISCRIMINATION ON THE BASIS OF MENTAL DISABILITIES: RESULTS OF A PILOT TEST, <https://www.huduser.gov/portal/sites/default/files/pdf/MentalDisabilities-FinalPaper.pdf>



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five white adults; a number exacerbated by historical housing discrimination and high rates of exposure to lead paint poisoning.⁷ For example, in Southwest Baltimore the population is 75% African-American due to historical segregation, and that area had a 37% lead paint violation rate in 2017.⁸ Compare that to the Roland Park neighborhood of Baltimore, which is 82% white, only has a 1.5% lead paint violation rate in 2017.⁹ Racial segregation compounds health inequities and contributes to the institutionalization and segregation of persons with disabilities.

As set forth in the preamble of this legislation, a purpose of SB 687 is to “ensure [Maryland is] implementing and enforcing the abolished federal Affirmatively Furthering Fair Housing regulations.” The regulations referenced were drafted in response in part to a General Accounting Office (GAO) report that prior process to implement the “affirmatively furthering fair housing” requirement, which relied on an Analysis of Impediments (AI), was ineffective.¹⁰ The 2015 rule remedied this gap by instituting a community-centered process to analyze patterns and causes of segregation as well as neighborhood disparities, and to set actionable goals to promote greater integration and equity.

It should be noted that affordable housing development and creation of more affordable housing does not necessarily create integrated housing opportunities for people with disabilities, including those of color.¹¹ Removing barriers to housing choice should be driven by facts, data, and the experiences of persons who continue to face barriers to housing choice.

SB 687 provides tools needed to achieve that goal. For these reasons, DRM encourages a **favorable** report.

Please do not hesitate to contact me with any questions regarding this matter.

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⁷ CENTER FOR DISEASE CONTROL, ADULTS WITH DISABILITIES: ETHNICITY AND RACE, available at <https://www.cdc.gov/ncbddd/disabilityandhealth/materials/infographic-disabilities-ethnicity-race.html>

⁸ BALTIMORE CITY HEALTH DEPARTMENT, BALTIMORE CITY 2017 NEIGHBORHOOD HEALTH PROFILE, available at <https://health.baltimorecity.gov/neighborhoods/neighborhood-health-profile-reports>

⁹ *Id.*

¹⁰ U.S. Government Accountability Office (GAO) “HUD Needs to Enhance Its Requirements and Oversight of Jurisdictions’ Fair Housing Plans,” GAO–10–905, Sept. 14, 2010.

SB0687-EHE_MACo_SWA.pdf

Uploaded by: Butler, Alex

Position: FWA



MARYLAND
Association of
COUNTIES

Senate Bill 687

State and Local Housing Programs – Affirmatively Furthering Fair Housing

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Education, Health and Environmental
Affairs Committee

Date: February 9, 2021

From: Alex Butler

The Maryland Association of Counties (MACo) **SUPPORTS** SB 687 **WITH AMENDMENTS**. As written, the bill contains several burdensome reporting and assessment requirements for local governments. MACo hopes to work toward bill amendments, seeking to accomplish the bill's essential goals while reducing much of this administrative difficulty.

SB 687 contains detailed reporting requirements for the Department of Housing and Community Development (DHCD) and local jurisdictions regarding housing accessibility and financial assistance, in addition to a very detailed assessment to be completed before further funding will be provided by the department, or during the next comprehensive plan cycle in 2022. It is likely that much of the required work will fall to local governments, which the Department will combine to prepare a statewide report. The data collection will be time-consuming and burdensome for counties, who already have limited resources in planning and housing departments.

Additionally, the bill would require the development of an established policy on affordable and fair housing at the county level to identify the goals and objectives necessary to take meaningful actions that will "affirmatively further fair housing," and the metrics with which counties would measure them. This assessment will resource demanding for local jurisdictions. If local jurisdictions cannot meet the demands of the bill, then they are not eligible for certain DHCD funding, which could serve to harm the jurisdictions with limited resources – the communities that need this funding the most.

MACo would like to work with the sponsor and the Committee to remove the penalty provisions in the bill and limit the burden on local government. Accordingly, MACo requests a **FAVORABLE WITH AMENDMENTS** report for SB 687.

SB 687_FWA_MML.pdf

Uploaded by: Fiore, Justin

Position: FWA



Maryland Municipal League

The Association of Maryland's Cities and Towns

TESTIMONY

February 9, 2021

Committee: Senate Education, Health, and Environmental Affairs Committee

Bill: SB 687 – State and Local Housing Programs – Affirmatively Furthering Fair Housing

Position: Favorable with Amendments

Reason for Position:

The Maryland Municipal League supports the idea of SB 687, that local jurisdictions should seek to affirmatively further fair housing. As drafted, this bill establishes definitions for affirmatively furthering fair housing, to include taking meaningful action. It also requires annual local government reports to DHCD to prove progress in order to receive funds. Finally, the legislation requires local jurisdictions to include affirmatively furthering fair housing practices and a similar HUD analysis into the Housing Element of their comprehensive plans.

MML is concerned with the reporting requirements and penalties contained within SB 687. Municipal staff has shared that gathering the requested data provides the largest hurdle, in part because many of the fair housing projects in municipalities are developed and managed by private entities. The League is also concerned with the vague bar of meaningful action and trying to understand how the Department would measure that from year to year as it determines whether a jurisdiction is eligible to receive the support it may need. Cities and towns are worried that the resources needed to comply with the administrative functions of the bill, compounded with the risk of being found to not have accomplished enough, may dissuade them seeking DHCD funds. Many of the market forces surrounding smaller municipalities have a far greater impact than the town's resources could overcome. We could not support the bill if this remains.

Just two years ago, the General Assembly approved the mandatory addition of a Housing Element to local comprehensive plans, with MML's support. The League believes this is a more appropriate way to address local housing goals in a manner consistent with smart, planned growth. Traditionally, the Department of Planning has provided resources and guidance to support local jurisdictions and are currently in the process of establishing such guidance for municipalities based on the 2019 law.

We are supportive of mirroring the 2019 approach, which already requires a Housing element to include addressing the need for affordable and workforce housing. It is important to remember that local comprehensive master plans are updated on a ten-year cycle with a five-year interim “check-up”. It is extremely time consuming and costly to amend a comprehensive master plan if it is out of the regular five-year and/or ten-year plan update cycle, so most jurisdictions have not yet added the Housing Element to their plan. Timing wise, this provides a great opportunity for affirmatively furthering fair housing practices to be included in a jurisdiction’s initial adoption.

We strongly believe that proper planning, with MDP guidance, would be more feasible and achieve better results than a rushed attempt by jurisdictions to avoid losing DHCD funding.

For these reasons, the Maryland Municipal League supports SB 687 and respectfully requests amendments to limit the scope to bolstering the Housing Element of local comprehensive plans.

FOR MORE INFORMATION CONTACT:

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Executive Director
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SB687 Written Testimony - Senate (2-9-2021).pdf

Uploaded by: Pickels, Hunter

Position: INFO

DATE: February 9, 2021

BILL NO.: Senate Bill 687

COMMITTEE: Senate Committee on Education, Health, and Environmental Affairs

TITLE: State and Local Housing Programs – Affirmatively Furthering Fair Housing

SPONSORS: Sen. Smith

Letter of Information

Description of Bill:

Senate Bill 687 establishes reporting requirements for the Department of Housing and Community Development that would require a significant data collection and analysis beyond the current scope of the agency's work, to include data collection from local governments, housing authorities, and private entities. Senate Bill 687 would also mandate that local governments undertake similar data collection and analysis as a part of their Comprehensive Plan process and impose upon local governments, housing authorities, and other private entities and certification and data analysis process before they may receive financial assistance from DHCD.

Background and Analysis:

Under the current applicable standards of the Fair Housing Act, HUD program participants (which include States, housing authorities, and nearly all local jurisdictions) already have a duty to affirmatively further fair housing. The Fair Housing Act and subsequent related acts requiring certifications do not specify how HUD, or recipients of HUD funding, are to affirmatively further fair housing, though HUD imposes site and neighborhood standards for HUD-funded development through 24 CFR § 891.125, and requires affirmative marketing of housing units to promote integrated neighborhoods. For that reason, we do not anticipate that this legislation will result in any increased availability or access to affordable housing for Marylanders. Rather, the impact may ultimately be the opposite, by increasing overall compliance costs to jurisdictions, obligating them to allocate finite resources that may otherwise be deployed in direct support of housing and community development programs.

The required reporting standard in this bill is similar to a federal rule, also referred to as Affirmatively Furthering Fair Housing (AFFH), promulgated by the U.S. Department of Housing and Urban Development (HUD). AFFH was never fully implemented for states and insular areas and was suspended in 2017 before being repealed last year. During the federal proposed rulemaking process, at one time, HUD estimated state compliance with their AFFH standard could be expected to take DHCD, as a state agency, approximately 1,000 hours of work over the five year reporting period, with most of that work concentrated in year or two of the five year Consolidated Plan cycle.

While the requested data under this bill is not as extensive as that of the proposed federal rule, the workload for this bill would certainly be greater overall due to the volume of information to be collected, much of it from third parties, and the number of jurisdictions that would be impacted. As was noted earlier, the AFFH report was to be submitted to HUD on a five year cycle (replacing the Analysis of Impediments to Fair Housing report); Senate Bill 687 requires an annual report.

In addition, under the federal rule, DHCD was only required to report on its own activities and assessments in “non-entitlement” jurisdictions, that is, jurisdictions that do not receive program funds directly from HUD; Senate Bill 687 requires DHCD to report on all jurisdictions, as well as any applicants for DHCD funding (to include housing authorities and other private entities).

In Maryland, there are 14 “entitlement” jurisdictions that are tasked with completing their own Consolidated Plans, including the associated Analysis of Impediments to Fair Housing (AI) or AFFH reporting (if applicable while the rule was in place), including the top 7 jurisdictions by population, accounting for approximately 80% of the population of the State of Maryland. The administrative burden for DHCD to report on all jurisdictions would require significantly more personnel hours.

This bill also creates reporting requirements and certification processes for local governments to adhere to, and requires any entities receiving financial assistance from DHCD, whether housing-related or not, to submit their own detailed certification that they affirmatively further fair housing and the ways in which they do it. DHCD provides financial assistance to a significant number of borrowers who are not involved in housing at all, including small businesses, such as restaurants and entertainment venues.

Both the reporting and the certifications will require increased compliance costs for local jurisdictions, but while the 14 entitlement jurisdictions may only see a limited expansion of their existing requirements, the vast majority of Maryland’s 24 counties and 157 municipalities would likely see a dramatic surge in compliance costs.

Finally, just last week, President Biden directed the HUD Secretary to undertake an examination of the impact of the repeal of the federal AFFH rule, and to take any action necessary to ensure that the Fair Housing Act’s requirements to affirmatively further fair housing are being implemented, including by preventing practices with an unjustified discriminatory impact. DHCD takes very seriously our existing duty to affirmatively further fair housing and we will continue to ensure the highest and best use of State resources to support high quality, affordable housing for Marylanders in all corners of the state. We welcome this examination and hope that the result will either affirm the progress being made by housing agencies across the country or result in a constructive process to address shortcomings eschewing the burdensome processes that accompanied the previous AFFH. In either case, we feel it would be prudent to let the federal examination and recommendations play out, without creating a duplicative, perhaps overly burdensome, unfunded mandate that may not comply with the federal government’s ultimate determination.

