



Senate Bill 274

Fair Housing and Housing Discrimination - Regulations, Intent, and Discriminatory Effect

Hearing before House Economic Matters Committee

April 2, 2026

Position: Favorable With Amendment

Maryland Legal Aid submits its written testimony on SB0274 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 11 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 will codify the federal disparate impact test of unlawful discrimination into Maryland's fair housing law. Given the federal government's active efforts to abandon disparate impact, now 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 may 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 to break down barriers to housing. We urge the Committee to adopt clarifying amendments and report Favorable With Amendment on SB 274.

Clarifying Amendments

1. As amended in the Senate, SB 274 includes language that not only varies from but also weakens the federal disparate impact test. On page 5, in lines 6 and 8, the Senate altered the phrase "substantial, legitimate, nondiscriminatory interests," changing that term of art to "substantial, legitimate, **or** nondiscriminatory interests." The insertion of the disjunctive into this phrase creates an entirely different standard for disparate impact claims than exists at the federal level. In federal regulations and Supreme Court jurisprudence, the three-part phrase establishes a specific burden on a defendant: to "prov[e] that the challenged practice is necessary to achieve one or more substantial, legitimate, nondiscriminatory interests." 24 CFR §100.500(c)(2); *Texas Dep't of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 527 (2015). "Once a

defendant has satisfied its burden... a plaintiff may ‘prevail upon proving that the substantial, legitimate, nondiscriminatory interests supporting the challenged practice could be served by another practice that has a less discriminatory effect.’” *Id.*

As amended on page 5, SB 274 radically weakens the disparate impact test, instead of simply codifying it in state law. For this reason, Maryland Legal Aid requests the Committee to strike “or” on lines 6 and 8 and to codify the federal phrasing “substantial, legitimate, nondiscriminatory interests.”

2. Additionally, the Senate amended SB 274 to remove both uses of the phrase “regardless of intent” (at page 4, lines 2 and 12). Disparate impact is itself a view that unlawful discrimination may harm individuals even absent an intention by another to discriminate. In other words, in a disparate impact claim, intent is not the lens of analysis of unlawful discrimination – discriminatory effect is the lens. SB 274 defines “discriminatory effect” on page 3, lines 19-24. There, Maryland Legal Aid seeks an amendment to insert the phrase “regardless of intent,” so that the bill defines discriminatory effect in line with the well-established understanding of disparate impact.

SB 274 codifies two key civil rights tools that provide critical protection 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, disparate impact 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.¹ Disparate impact claims have also been essential in protecting access to housing for disabled Marylanders, ensuring the availability of accessible housing units² and preventing unjust fees arising from the use of disability aids and accommodations.³ In addition, the Maryland Supreme Court relied on a disparate impact theory in *Hare v. David S. Brown Enterprises, Ltd.*, to protect Housing Choice Vouchers recipients from being

¹ *Thompson v. U.S. Dep’t of Hous. & Urb. Dev.*, 348 F. Supp. 2d 398 (D. Md. 2005)

² 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.

³ *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).

discriminated against because of their source of income.⁴ 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 our tools to combat discrimination and to 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.⁵ 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 With Amendment report on SB 274.**

If you have any questions, please contact:

Zafar Shah
Advocacy Director for Human Right to Housing
zshah@mdlalab.org | (410) 951-7672

⁴ 491 Md. 653, 340 A.3d 698 (2025).

⁵ Current Maryland antidiscrimination law includes these protected classes: race, color, religion, sex, disability, marital status, familial status, sexual orientation, gender identity, national origin, source of income, and military status. Md. Code Ann., State Government Art. § 20-702(a).