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April 2, 2026

TO: The Honorable Kriselda Valderrama
Chair, Economic Matters Committee

FROM: Tiffany Clark
Director, Legislative Affairs, Office of the Attorney General

RE: Senate Bill 274 - Fair Housing and Housing Discrimination - Regulations
and Discriminatory Effect (Support with Amendments)

The Office of the Attorney General (OAG) supports Senate Bill 274 with the amendments described below. Senate Bill 274 confirms that Maryland law prohibits housing policies and practices that apply generally to everyone but have a disparate impact on protected classes.

Unfortunately, the bill was amended in the Senate, and the amendments (1) remove existing protections under state law and (2) create conflicts with federal law. We ask that the bill be amended to ensure that there is no conflict with federal law and can be used as a tool to remedy decades-long exclusion of Black residents, other residents of color, and other protected classes who have experienced historic and present-day discrimination. The Economic Matters Committee voted favorably on the crossfile to this bill, House Bill 573. We urge the Committee to amend SB 274 and restore these critical protections.

Marylanders are protected from housing discrimination by state, local, and federal law. It is illegal to deny someone equal access to housing based on a broad range of demographic characteristics, including race, gender, sexuality, gender identity, disability, or familial status. In 2023, the General Assembly extended protections against discrimination to include persons who use a government voucher to pay rent when it enacted the Housing Opportunities Made Equal or "HOME" Act.

Nevertheless, housing discrimination in Maryland continues to persist. Maryland is amongst the most diverse states in the nation, yet it remains highly segregated. Segregation has an impact on

every aspect of life. The ability to live where one chooses affects access to nutrition or health care, defines what school a student can attend, limits access to work or transportation, and impacts recreational and cultural opportunities. Housing discrimination also impacts the value of a home based on the race of the owner, which has a serious impact on wealth inequality and the creation of generational wealth.

The United States Supreme Court recognized that under the Fair Housing Act, disparate impact can constitute unlawful discrimination in certain circumstances. The Court created a careful balance between the values of our anti-discrimination laws and the legitimate business interests of housing providers, adopting a three-part burden-shifting test. First, is there a policy of general application that has a discriminatory effect on a protected class? If so, the court moves to the second step of whether there are legitimate business interests being achieved by the policy. And finally, the burden shifts back to the question of whether the policy is the least restrictive mechanism to reasonably achieve the business objective. The Supreme Court of Maryland similarly found that a neutral policy that has the effect of discrimination may constitute a violation of Maryland's fair housing laws, defining disparate impact as when "parties are facially treated the same, but the outcome is discriminatory, often because the two groups are differently situated in a meaningful way." *Hare v. David S. Brown Enterprises, Ltd.*, 491 Md. 653, 672 (2025).

Disparate impact theory is under attack, and the threat has increased under the Trump Administration. President Trump's Executive Order 14281 asserts that it is the policy of the United States to eliminate the use of disparate-impact liability in all contexts. The federal Department of Housing and Urban Development issued a proposed rule change on January 14, 2026 to eliminate disparate impact from its fair housing regulations. As the federal government grows hostile to civil rights enforcement, the importance of Maryland's anti-discrimination laws only increases.

We appreciate the intent of SB 274 to affirm Maryland's commitment to fair housing and to eliminate ambiguity about the availability of disparate impact as a theory of liability. However, to ensure alignment with existing federal and state law, we respectfully recommend the bill amended to reflect the language of the bill as introduced.

For the foregoing reasons, the Office of the Attorney General respectfully urges the Committee to give Senate Bill 274 a favorable report with the amendments described above.

Cc: Members of the Committee