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SB 335 – Human Relations – Discrimination in Housing – Income Based Housing Subsidies

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Position: FAVORABLE

The Public Justice Center (PJC) is a nonprofit public interest law firm that stands with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing and their rights to fair and equal treatment by Maryland's landlord-tenant laws, courts, and agencies. The PJC advocates for systemic change to build a just society. PJC has represented many subsidized renters who are consistently denied housing because of their credit score; even in circumstances where their subsidy pays for their full rent. These inequitable denials are discriminatory and bear no relationship to whether the renter will have the ability to pay their rent share.

This is why the PJC submits this testimony in strong support for SB 335, legislation that ensures Maryland's source-of-income discrimination protections function as intended by addressing the misapplication of credit and income-based screening for applicants with income-based housing subsidies.

For families who rely on housing assistance, including Housing Choice Vouchers and other income-based subsidies, credit and income-based screening often create a persistent barrier that undermines both the purpose of housing assistance programs and the intent of Maryland's HOME Act. While a landlord has understandable interest in mitigating their risk, for assisted tenants, credit and income-based screening is unnecessary because risk is already mitigated by the existence of the assistance, which adjusts as tenant incomes changes to ensure both ongoing affordability and stability in payment.

Public Housing Authorities (PHAs) and voucher administrators perform income verification, include utility allowance calculations in monthly housing costs, ensure affordability by capping the tenant's share to 30% of their income, and increase assistance if income falls. Without using credit screening, landlords can calibrate their screening to focus on alternatives that are far more rent-relevant, including rental history checks, landlord references, and verified eviction outcomes alongside the PHA affordability determination already in place.

Credit Checks Are Not Predictive of Rental Risk for Assisted Tenants

Credit scores were never designed to assess likelihood of successful tenancy, and they rarely include rental payment history.¹ There is no credible evidence that credit scores predict tenancy outcomes, while the data and guidance available supports alternative screening for assisted tenants.

The U.S. Department of Housing and Urban Development's *2024 Guidance on Screening of Applicants for Rental Housing* explicitly warns that credit scores were not designed for rental decisions and pose a significant risk of unjustified discriminatory impact, especially when more relevant financial information is available. HUD notes in the guidance that when a government entity guarantees a substantial share of rent, negative credit history is not reflective of risk, "For example, a government agency or other entity guaranteeing a significant portion of an applicant's income should make it significantly more likely that the applicant's rent will be paid on time notwithstanding any negative credit history, particularly if that history predates the applicant's receipt of such assistance."²

Further, as noted above, HUD emphasizes that PHAs have already determined affordability and will increase assistance if a household's income decreases, making additional income or credit screening unnecessary and duplicative, "Housing providers and tenant screening companies should keep in mind that under the Housing Choice Voucher program and other assisted housing programs, a public housing agency or other entity has already deemed the rent affordable based on the applicant's income and will increase the amount of assistance if the applicant's income decreases." Research analyzing the use of Housing Choice Vouchers in New York City underscores this point and the risk mitigation of the program, demonstrating that voucher households experienced lower eviction filing rates than similar renter households living nearby, underscoring the program's stabilizing impact.³

At the same time, credit screening practices disproportionately exclude communities historically marginalized by structural inequities. Studies have documented significant racial gaps in credit scores, driven by unequal access to financial products and historic discrimination rather than rental reliability.⁴

¹ Consumer Financial Protection Bureau (2022). *Tenant Background Checks Market*.

https://files.consumerfinance.gov/f/documents/cfpb_tenant-background-checks-market_report_2022-11.pdf

² U.S. Department of Housing and Urban Development. (2024). Application of the Fair Housing Act to the Screening of Applicants for Rental Housing. [archives.hud.gov/news/2024/FHEO_Guidance_on_Screening_of_Applicants_for_Rental_Housing.pdf](https://www.archives.hud.gov/news/2024/FHEO_Guidance_on_Screening_of_Applicants_for_Rental_Housing.pdf)

³ NYU Furman Center. (May 20, 2024). *The Use of Housing Choice Vouchers in New York City*.

<https://furmancenter.org/stateofthecity/view/the-use-of-housing-choice-vouchers-in-new-york-city>

⁴ Urban Institute. (2017). Credit scores perpetuate racial disparities, even in America's most prosperous cities.

<https://www.urban.org/urban-wire/credit-scores-perpetuate-racial-disparities-even-americas-most-prosperous-cities>

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⁵ Maryland's subsidized housing population is disproportionately Black and includes many families with children⁶, meaning blanket credit cutoffs have a predictable disparate impact on protected classes.

SB 335 Is a Necessary and Evidence-Based Fix

The continued reliance on credit scores and income thresholds, despite clear evidence of their irrelevance for subsidized tenants, undermines the effectiveness of Maryland's source-of-income protections and prevents families from accessing stable housing. Removing unnecessary barriers supports Maryland's broader housing goals by promoting access to quality housing, improving mobility opportunities, and providing stability and economic opportunity. Importantly, **SB 335** does not prevent landlords from assessing risk for their properties or screening tenants, but it requires that screening criteria be relevant to the applicant's circumstances and the structure of their rental assistance.

For these reasons, the undersigned organizations urge a **FAVORABLE REPORT on SB 335** to ensure that Maryland families using income-based housing subsidies are not unfairly denied the opportunity to secure safe and stable housing.

⁵ National Consumer Law Center. (2024). Past Imperfect: How Credit Scores and Other Analytics "Bake In" and Perpetuate Past Discrimination. <https://www.nclc.org/resources/past-imperfect-how-credit-scores-and-other-analyticsbake-in-and-perpetuate-past-discrimination/>

⁶ U.S. Department of Housing and Urban Development. Picture of Subsidized Households Dataset. https://www.huduser.gov/portal/datasets/assthsg.html#query_2009-2024

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