

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 759 (Delegates Lafferty and McIntosh)  
Environment and Transportation

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**Home Act of 2016**

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This bill prohibits discriminatory practices in residential real estate transactions and the sale or rental of a dwelling because of a person's source of income.

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**Fiscal Summary**

**State Effect:** Any additional workload for the Maryland Commission on Civil Rights (MCCR), the Judiciary, or the Office of Administrative Hearings can be handled with existing budgeted resources. Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

**Local Effect:** Potential minimal increase in expenditures due to the bill's criminal penalty provisions. Revenues are not likely affected, as most of the additional criminal cases resulting from the bill are under the jurisdiction of the District Court. The bill does not materially impact the workload of the circuit courts.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary:** 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.

Under the bill, a “source of income” is any lawful source of money paid directly or indirectly to or on behalf of a renter or buyer of housing, including income from (1) any lawful profession, occupation, or job; (2) any government or private assistance, grant, loan, or rental assistance program, including low-income housing assistance certificates and vouchers; (3) any gift, inheritance, pension, annuity, alimony, child support, or other consideration or benefit; and (4) any sale or pledge of property or an interest in property.

The bill also prohibits a person whose business includes engaging in residential real estate related transactions from discriminating against a person in making available a transaction, or in the terms or conditions of a transaction, because of the person’s source of income. However, a real estate appraiser may take into consideration factors other than source of income. The bill prohibits a person from, because of a person’s source of income, denying that person access to, or membership or participation in, a multiple-listing service; real estate brokers’ organization; or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminating against a person in the terms or conditions of membership or participation.

The bill also prohibits any person, whether or not acting under color of law, by force or threat of force, from willfully injuring, intimidating, or interfering with a person’s activities related to the sale, purchase, rental, or occupation of a dwelling, or from attempting to do so. Existing criminal penalties relating to these activities are expanded to include the prohibition against discrimination based on source of income.

The bill does not apply to the rental of rooms or apartments in an owner’s principal residence if the source of income is rental assistance. The exemption for apartments is limited to an owner-occupied dwelling with up to five rental units.

The bill neither prevents a person from refusing to consider income derived from any criminal activity nor prohibits a person from determining the ability of a potential buyer or renter to pay by verifying, in a commercially reasonable and nondiscriminatory manner, the source and amount of income of the potential buyer or renter. The bill does not limit the rights or remedies that are otherwise available to a landlord or tenant under any other law.

**Current Law:** Housing discrimination because of race, sex, color, religion, national origin, marital status, familial status, sexual orientation, gender identity, 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.

Willfully injuring, intimidating, or interfering, by force or threat of force, with a person's activities related to the sale, purchase, rental, or occupation of a dwelling, or to attempt to do so, is a misdemeanor. A violator is subject to maximum penalties of one year imprisonment and/or a \$1,000 fine. If the violation results in bodily injury, the maximum penalty is 10 years imprisonment and/or a \$10,000 fine. If the violation results in death, the maximum penalty is life imprisonment.

**Background:** As noted in the bill's preamble, 11 states, the District of Columbia, and numerous local jurisdictions have laws prohibiting discrimination based on a person's source of income.

**State Revenues:** General fund revenues may increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court or from additional civil penalties assessed.

**State Expenditures:** General fund expenditures may increase minimally as a result of the bill's incarceration penalty due to the possibility of more people being committed to State correctional facilities for convictions in Baltimore City. The number of people convicted under the bill's provisions who are likely to be subject to incarceration is not expected to materially affect the expenditures of the Department of Public Safety and Correctional Services (DPSCS).

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Enhanced penalties of life imprisonment and a \$10,000 fine and/or 10 years imprisonment are provided if specified violations result in death or bodily injury, respectively. However, it is assumed that only a minimal number of people are potentially subject to these enhanced penalties. Accordingly, DPSCS expenditures are not materially impacted as a

result of people being sentenced to State correctional facilities for longer periods of time under the enhanced penalty provisions.

**Local Revenues:** Although enhanced penalties of life imprisonment and a \$10,000 fine and/or 10 years imprisonment are provided if specified violations result in death or bodily injury, respectively, it is assumed that the potential number of people subject to these enhanced penalties does not materially impact the revenues of the circuit courts, as most of the cases fall under the jurisdiction of the District Court.

**Local Expenditures:** Expenditures may increase minimally as a result of the bill's incarceration penalty. It is expected, however, that those subject to incarceration under the bill's provisions are not likely to materially affect local government expenditures.

Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

**Small Business Effect:** By prohibiting discrimination based on the source of a tenant's income, additional landlords may be subject to participation in the Housing Voucher program, which was established as a voluntary program. Landlords participating in the Housing Voucher program may have increased administrative responsibilities, as program participation, which is governed by federal standards, is administered by State and local housing authorities. For example, federal regulations require annual inspections by the housing authorities; some housing authorities require participating landlords to have direct deposit.

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### **Additional Information**

**Prior Introductions:** HB 366 of 2014, a similar bill, was withdrawn. HB 1098, a similar bill, received a hearing in the House Environmental Matters Committee, but was subsequently withdrawn. SB 487 of 2013 was recommitted to the Senate Judicial Proceedings Committee. Its cross file, HB 603, received a hearing in the House Environmental Matters Committee, but no further action was taken. In addition, similar bills were introduced in the 2010 through 2012 sessions.

**Cross File:** None.

**Information Source(s):** Maryland Commission on Civil Rights; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Housing Opportunities Commission of Montgomery County; Department of Legislative Services

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