

# HOUSE BILL 90

L6, C8

(PRE-FILED)

1r1056  
CF 1r1051

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By: **Delegate Lierman**

Requested: October 21, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **State and Local Housing Programs – Affirmatively Furthering Fair Housing**

3 FOR the purpose of requiring the Department of Housing and Community Development to  
4 provide a certain report to the General Assembly and the Governor on or before a  
5 certain date each year; requiring the Department to administer certain programs to  
6 affirmatively further fair housing and prohibiting the Department from taking any  
7 action that is materially inconsistent with the obligation to affirmatively further fair  
8 housing; requiring the Department to require certain political subdivisions, housing  
9 authorities, and private entities to affirmatively further fair housing; requiring  
10 certain political subdivisions, housing authorities, and private entities to submit an  
11 assessment of fair housing to the Department under certain circumstances;  
12 requiring an assessment of fair housing to contain certain information; providing  
13 that certain requirements do not require or prohibit certain actions; imposing a duty  
14 on local jurisdictions to affirmatively further fair housing through certain housing  
15 and urban development programs; requiring a comprehensive plan enacted or  
16 amended on or after a certain date to include an assessment of fair housing in the  
17 comprehensive plan's housing element; requiring a local jurisdiction that completed  
18 a certain assessment or analysis to incorporate relevant portions of the assessment  
19 or analysis into the local jurisdiction's comprehensive plan the next time the local  
20 jurisdiction amends its comprehensive plan on or after a certain date; defining  
21 certain terms; providing for a delayed effective date for certain provisions of this Act;  
22 and generally relating to affirmatively furthering fair housing.

23 BY adding to

24 Article – Housing and Community Development

25 Section 2–302; and 2–401 and 2–402 to be under the new subtitle “Subtitle 4.  
26 Affirmatively Furthering Fair Housing”

27 Annotated Code of Maryland

28 (2019 Replacement Volume and 2020 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Land Use  
3 Section 3–114  
4 Annotated Code of Maryland  
5 (2012 Volume and 2020 Supplement)

6 Preamble

7 WHEREAS, The federal Fair Housing Act of 1968 was intended to end housing  
8 discrimination and to promote diverse, inclusive communities; and

9 WHEREAS, Over the past 50 years, most states and local housing programs that  
10 receive federal funding from the U.S. Department of Housing and Urban Development have  
11 failed to fulfill their obligations to affirmatively further fair housing under the Fair Housing  
12 Act because the Act has not been enforced effectively and its intent has not been achieved;  
13 and

14 WHEREAS, Discrimination in housing and concentrated poverty persist in  
15 Maryland today; and

16 WHEREAS, The segregation and institutionalization of people with disabilities  
17 persists in part because of barriers to housing in integrated community settings; and

18 WHEREAS, The General Assembly recognizes that equality, fairness, and  
19 opportunity for Maryland residents often require government action and that security,  
20 mobility, and economic opportunity are enhanced by the location of a person's home; and

21 WHEREAS, Segregated neighborhoods of concentrated poverty are often lacking in  
22 economic opportunities and experience greater crime, while integrated, mixed-income  
23 neighborhoods are more likely to be healthy, thriving communities; and

24 WHEREAS, This Act seeks to deconcentrate poverty and take proactive steps to  
25 combat discrimination and segregation and to increase opportunities for low-income  
26 communities; and

27 WHEREAS, Maryland should ensure that it is implementing and enforcing the  
28 abolished federal Affirmatively Furthering Fair Housing regulations within the State as  
29 part of the State's duties under the Fair Housing Act because a framework will help local  
30 communities receiving federal Housing and Urban Development funds make concrete, data  
31 and community member-driven plans to foster thriving communities for everyone,  
32 regardless of race, color, religion, national origin, gender, sexual orientation, family status,  
33 or disability; now, therefore,

34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
35 That the Laws of Maryland read as follows:

36 **Article – Housing and Community Development**

1 **2-302.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (2) "ASSISTED PROJECT" HAS THE MEANING STATED IN § 7-101 OF  
5 THIS ARTICLE.

6 (3) "ASSISTED UNIT" HAS THE MEANING STATED IN § 7-101 OF THIS  
7 ARTICLE.

8 (4) "MARYLAND ACCESSIBILITY CODE" MEANS THE BUILDING CODE  
9 ADOPTED UNDER § 12-202 OF THE PUBLIC SAFETY ARTICLE.

10 (B) ON OR BEFORE DECEMBER 1, 2021, AND EACH DECEMBER 1  
11 THEREAFTER, THE DEPARTMENT, IN CONSULTATION WITH POLITICAL  
12 SUBDIVISIONS AND HOUSING AUTHORITIES, SHALL SUBMIT A REPORT TO THE  
13 GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT  
14 ARTICLE, TO THE GENERAL ASSEMBLY ON:

15 (1) THE TOTAL NUMBER OF HOUSEHOLDS THAT RECEIVED FINANCIAL  
16 ASSISTANCE THROUGH STATE OR LOCAL HOUSING AND RENTAL ASSISTANCE  
17 PROGRAMS, DISAGGREGATED BY RACE, DISABILITY STATUS, AND INCOME;

18 (2) THE AGGREGATE AMOUNT OF FINANCIAL ASSISTANCE PROVIDED  
19 TO HOUSEHOLDS THROUGH STATE AND LOCAL HOUSING AND RENTAL ASSISTANCE  
20 PROGRAMS, DISAGGREGATED BY RACE, DISABILITY STATUS, AND INCOME;

21 (3) HOUSING ACCESSIBILITY FOR DISABLED RESIDENTS, INCLUDING:

22 (I) THE NUMBER OF ASSISTED PROJECTS AND ASSISTED UNITS  
23 THAT COMPLY WITH THE DESIGN AND CONSTRUCTION REQUIREMENTS UNDER § 504  
24 OF THE FEDERAL REHABILITATION ACT, THE FEDERAL FAIR HOUSING ACT, AND  
25 THE MARYLAND ACCESSIBILITY CODE;

26 (II) THE FEATURES OF ASSISTED PROJECTS AND ASSISTED  
27 UNITS THAT COMPLY WITH THE DESIGN AND CONSTRUCTION REQUIREMENTS  
28 UNDER § 504 OF THE FEDERAL REHABILITATION ACT, THE FEDERAL FAIR HOUSING  
29 ACT, AND THE MARYLAND ACCESSIBILITY CODE; AND

30 (III) THE SUPPLY AND THE DEMAND IN THE STATE FOR ASSISTED  
31 PROJECTS AND ASSISTED UNITS THAT ARE ACCESSIBLE FOR DISABLED RESIDENTS;

1           (4) AFFIRMATIVE MARKETING EFFORTS BY THE DEPARTMENT,  
2 POLITICAL SUBDIVISIONS, AND HOUSING AUTHORITIES TO SUPPORT PEOPLE OF  
3 COLOR AND VOUCHER HOLDERS IN GAINING ACCESS TO ASSISTED HOUSING  
4 LOCATED IN HIGHER OPPORTUNITY AREAS; AND

5           (5) THE EFFORTS BY POLITICAL SUBDIVISIONS AND HOUSING  
6 AUTHORITIES TO PROMOTE FAIR HOUSING CHOICE AND RACIAL AND ECONOMIC  
7 HOUSING INTEGRATION, AND THE RESULTS OF THOSE EFFORTS, INCLUDING:

8           (I) THE RACIAL COMPOSITION AND DISABILITY STATUS OF THE  
9 OCCUPANTS OF AND INDIVIDUALS ON THE WAITING LIST FOR ASSISTED PROJECTS;  
10 AND

11           (II) THE RACIAL COMPOSITION OF THE CENSUS TRACT WHERE  
12 EACH ASSISTED PROJECT IS LOCATED.

13           (C) THE INFORMATION PROVIDED IN THE REPORT REQUIRED UNDER THIS  
14 SECTION SHALL BE DISAGGREGATED BY PROJECT, PROGRAM OR SUBSIDY TYPE, AND  
15 OCCUPANCY TYPE, INCLUDING GENERAL OCCUPANCY OR RESTRICTED OCCUPANCY.

16           **SUBTITLE 4. AFFIRMATIVELY FURTHERING FAIR HOUSING.**

17           **2-401.**

18           (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
19 INDICATED.

20           (B) (1) “AFFIRMATIVELY FURTHER FAIR HOUSING” MEANS TO TAKE  
21 MEANINGFUL ACTIONS, IN ADDITION TO ACTIONS AIMED AT COMBATING  
22 DISCRIMINATION, TO:

23           (I) OVERCOME PATTERNS OF SEGREGATION; AND

24           (II) FOSTER INCLUSIVE COMMUNITIES FREE FROM BARRIERS  
25 THAT RESTRICT ACCESS TO HOUSING AND OPPORTUNITY BASED ON PROTECTED  
26 CHARACTERISTICS.

27           (2) “AFFIRMATIVELY FURTHER FAIR HOUSING” INCLUDES TO TAKE  
28 MEANINGFUL ACTIONS THAT, TAKEN TOGETHER:

29           (I) ADDRESS SIGNIFICANT DISPARITIES IN HOUSING NEEDS  
30 AND ACCESS TO OPPORTUNITY;

1 (II) REPLACE SEGREGATED LIVING PATTERNS WITH TRULY  
2 INTEGRATED AND BALANCED LIVING PATTERNS;

3 (III) TRANSFORM RACIALLY AND ETHNICALLY CONCENTRATED  
4 AREAS OF POVERTY INTO AREAS OF OPPORTUNITY; AND

5 (IV) FOSTER AND MAINTAIN COMPLIANCE WITH CIVIL RIGHTS  
6 AND FAIR HOUSING LAWS.

7 (C) "MEANINGFUL ACTION" MEANS A SIGNIFICANT ACTION THAT IS  
8 DESIGNED AND CAN BE REASONABLY EXPECTED TO ACHIEVE A MATERIAL POSITIVE  
9 CHANGE BY, FOR EXAMPLE, INCREASING FAIR HOUSING CHOICE OR DECREASING  
10 DISPARITIES IN ACCESS TO OPPORTUNITY.

11 2-402.

12 (A) THE DEPARTMENT:

13 (1) SHALL ADMINISTER ITS PROGRAMS AND ACTIVITIES RELATED TO  
14 HOUSING AND COMMUNITY DEVELOPMENT TO AFFIRMATIVELY FURTHER FAIR  
15 HOUSING; AND

16 (2) MAY NOT TAKE ANY ACTION THAT IS MATERIALLY INCONSISTENT  
17 WITH THE OBLIGATION TO AFFIRMATIVELY FURTHER FAIR HOUSING.

18 (B) (1) THE DEPARTMENT SHALL REQUIRE POLITICAL SUBDIVISIONS,  
19 HOUSING AUTHORITIES, AND PRIVATE ENTITIES THAT RECEIVE FINANCIAL  
20 ASSISTANCE THROUGH THE DEPARTMENT TO AFFIRMATIVELY FURTHER FAIR  
21 HOUSING.

22 (2) TO ENSURE THAT POLITICAL SUBDIVISIONS, HOUSING  
23 AUTHORITIES, AND PRIVATE ENTITIES AFFIRMATIVELY FURTHER FAIR HOUSING,  
24 THE DEPARTMENT SHALL, IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION,  
25 REQUIRE A POLITICAL SUBDIVISION, HOUSING AUTHORITY, OR PRIVATE ENTITY TO  
26 SUBMIT AN ASSESSMENT OF FAIR HOUSING TO THE DEPARTMENT BEFORE THE  
27 DEPARTMENT MAY PROVIDE FINANCIAL ASSISTANCE TO THE POLITICAL  
28 SUBDIVISION, HOUSING AUTHORITY, OR PRIVATE ENTITY FOR HOUSING OR  
29 COMMUNITY DEVELOPMENT PURPOSES.

30 (C) AN ASSESSMENT OF FAIR HOUSING REQUIRED UNDER SUBSECTION (B)  
31 OF THIS SECTION SHALL INCLUDE:

1           **(1) A SUMMARY OF FAIR HOUSING ISSUES IN THE POLITICAL**  
2 **SUBDIVISION AND AN ASSESSMENT OF THE POLITICAL SUBDIVISION’S POLICIES AND**  
3 **PRACTICES RELATING TO HOUSING AND COMMUNITY DEVELOPMENT, FAIR HOUSING**  
4 **ENFORCEMENT, AND FAIR HOUSING OUTREACH CAPACITY;**

5           **(2) AN ANALYSIS OF AVAILABLE FEDERAL, STATE, AND LOCAL DATA**  
6 **AND KNOWLEDGE TO IDENTIFY INTEGRATION AND SEGREGATION PATTERNS AND**  
7 **TRENDS, RACIALLY OR ETHNICALLY CONCENTRATED AREAS OF POVERTY,**  
8 **DISPARITIES IN ACCESS TO OPPORTUNITY, AND DISPROPORTIONATE HOUSING**  
9 **NEEDS WITHIN THE POLITICAL SUBDIVISION, INCLUDING DISPLACEMENT RISK;**

10           **(3) AN ASSESSMENT OF THE FACTORS THAT CONTRIBUTE TO THE**  
11 **ISSUES AND IMPEDIMENTS IDENTIFIED UNDER ITEM (2) OF THIS SUBSECTION;**

12           **(4) AN IDENTIFICATION OF THE POLITICAL SUBDIVISION’S FAIR**  
13 **HOUSING PRIORITIES AND GOALS, GIVING HIGHEST PRIORITY TO THE FACTORS**  
14 **IDENTIFIED UNDER ITEM (3) OF THIS SUBSECTION THAT LIMIT OR DENY FAIR**  
15 **HOUSING CHOICE OR ACCESS TO OPPORTUNITY, OR NEGATIVELY IMPACT FAIR**  
16 **HOUSING OR CIVIL RIGHTS COMPLIANCE, AND IDENTIFYING THE METRICS AND**  
17 **MILESTONES FOR DETERMINING WHAT FAIR HOUSING RESULTS WILL BE ACHIEVED;**  
18 **AND**

19           **(5) STRATEGIES AND ACTIONS TO IMPLEMENT THE PRIORITIES AND**  
20 **GOALS, INCLUDING:**

21           **(I) ENHANCING MOBILITY STRATEGIES AND ENCOURAGING**  
22 **DEVELOPMENT OF NEW AFFORDABLE HOUSING IN AREAS OF OPPORTUNITY; AND**

23           **(II) ENHANCING PLACE-BASED STRATEGIES AND**  
24 **ENCOURAGING COMMUNITY REVITALIZATION, INCLUDING PRESERVING EXISTING**  
25 **AFFORDABLE HOUSING AND PROTECTING EXISTING RESIDENTS FROM**  
26 **DISPLACEMENT.**

27           **(D) THIS SECTION DOES NOT:**

28           **(1) REQUIRE A POLITICAL SUBDIVISION, HOUSING AUTHORITY, OR**  
29 **PRIVATE ENTITY TO TAKE A SPECIFIC ACTION TO AFFIRMATIVELY FURTHER FAIR**  
30 **HOUSING; OR**

31           **(2) PROHIBIT A POLITICAL SUBDIVISION, HOUSING AUTHORITY, OR**  
32 **PRIVATE ENTITY FROM TAKING A SPECIFIC ACTION TO AFFIRMATIVELY FURTHER**  
33 **FAIR HOUSING.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
2 as follows:

3 **Article – Land Use**

4 3–114.

5 (a) (1) In this section the following words have the meanings indicated.

6 **(2) “AFFIRMATIVELY FURTHER FAIR HOUSING” HAS THE MEANING**  
7 **STATED IN § 2–401 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.**

8 **[(2)] (3)** “Area median income” has the meaning stated in § 4–1801 of the  
9 Housing and Community Development Article.

10 **[(3)] (4)** “Low–income housing” means housing that is affordable for a  
11 household with an aggregate annual income that is below 60% of the area median income.

12 **[(4)] (5)** “Workforce housing” has the meaning stated in § 4–1801 of the  
13 Housing and Community Development Article.

14 (b) A housing element may include goals, objectives, policies, plans, and  
15 standards.

16 (c) A housing element shall address the need for affordable housing within the  
17 local jurisdiction, including:

18 (1) workforce housing; and

19 (2) low–income housing.

20 **(D) (1) LOCAL JURISDICTIONS HAVE A DUTY TO AFFIRMATIVELY**  
21 **FURTHER FAIR HOUSING THROUGH THEIR HOUSING AND URBAN DEVELOPMENT**  
22 **PROGRAMS.**

23 **(2) THE HOUSING ELEMENT OF A COMPREHENSIVE PLAN THAT IS**  
24 **ENACTED OR AMENDED ON OR AFTER JANUARY 1, 2022, SHALL INCLUDE AN**  
25 **ASSESSMENT OF FAIR HOUSING, AS DESCRIBED UNDER § 2–402 OF THE HOUSING**  
26 **AND COMMUNITY DEVELOPMENT ARTICLE, TO ENSURE THAT THE LOCAL**  
27 **JURISDICTION IS AFFIRMATIVELY FURTHERING FAIR HOUSING.**

28 **(3) THIS SUBSECTION DOES NOT REQUIRE A LOCAL JURISDICTION TO**  
29 **TAKE, OR PROHIBIT A LOCAL JURISDICTION FROM TAKING, A SPECIFIC ACTION TO**  
30 **AFFIRMATIVELY FURTHER FAIR HOUSING.**

1 SECTION 3. AND BE IT FURTHER ENACTED, That:

2 (a) A local jurisdiction that completed or revised an Assessment of Fair Housing  
3 under the federal Department of Housing and Urban Development's Affirmatively  
4 Furthering Fair Housing Rule, published in the Federal Register on July 16, 2015, or an  
5 analysis of impediments to fair housing prior to the Affirmatively Furthering Fair Housing  
6 Rule, shall incorporate relevant portions of the Assessment of Fair Housing or analysis of  
7 impediments into the housing element of the local jurisdiction's comprehensive plan, as  
8 described under § 3-114 of the Land Use Article, the next time the local jurisdiction amends  
9 its comprehensive plan.

10 (b) Subsection (a) of this section applies only to a comprehensive plan that is  
11 amended on or after January 1, 2022.

12 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 2 and 3 of this Act  
13 shall take effect January 1, 2022.

14 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section  
15 4, this Act shall take effect October 1, 2021.