

HOUSE BILL 168

D5, N1
HB 902/11 – ENV

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CF 2lr0897

By: **Delegates Lafferty, Anderson, Barnes, Bobo, Braveboy, Cane, Carr, Davis, Frush, Gaines, Gilchrist, Healey, Hubbard, Hucker, Ivey, Kaiser, Luedtke, Nathan–Pulliam, Pena–Melnyk, S. Robinson, Rosenberg, Ross, Summers, V. Turner, Waldstreicher, and Washington**

Introduced and read first time: January 24, 2012

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Human Relations – Housing Discrimination – Source of Income**

3 FOR the purpose of expanding the housing policy of the State to include providing for
4 fair housing to all citizens regardless of source of income; prohibiting a person
5 from refusing to sell or rent a dwelling to any person because of source of
6 income; establishing certain qualifications and limitations on the general
7 prohibition against discrimination in housing based on source of income;
8 prohibiting a person from discriminating against any person in the terms,
9 conditions, or privileges of the sale or rental of a dwelling because of source of
10 income; prohibiting a person from making, printing, or publishing certain types
11 of materials with respect to the sale or rental of a dwelling that indicate a
12 preference, limitation, or discrimination on the basis of source of income;
13 prohibiting a person from falsely representing that a dwelling is not available
14 for inspection, sale, or rental based on source of income; prohibiting a person
15 from inducing or attempting to induce, for profit, a person to sell or rent a
16 dwelling by making certain representations relating to the entry or prospective
17 entry into the neighborhood of a person having a particular source of income;
18 prohibiting a person whose business includes engaging in residential real estate
19 transactions from discriminating against any person in making available a
20 transaction, or in the terms or conditions of a transaction, because of source of
21 income; prohibiting a person from denying a person, based on source of income,
22 access to or membership or participation in a service, organization, or facility
23 relating to the business of selling or renting dwellings, or to discriminate
24 against a person in the terms or conditions of membership; prohibiting a person
25 from, by force or threat of force, willfully injuring, intimidating, or interfering
26 with any person because of source of income and because the person is
27 negotiating for the sale or rental of any dwelling or participating in any service
28 relating to the business of selling or renting dwellings; defining a certain term;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 providing that certain provisions concerning source of income do not apply to
2 certain housing; providing that this Act does not limit the rights or remedies
3 that are otherwise available to a landlord or tenant under any other law; and
4 generally relating to prohibitions against discrimination in housing based on
5 source of income.

6 BY repealing and reenacting, with amendments,
7 Article – State Government
8 Section 20–701, 20–702, 20–704, 20–705, 20–707, and 20–1103
9 Annotated Code of Maryland
10 (2009 Replacement Volume and 2011 Supplement)

11 Preamble

12 WHEREAS, The General Assembly recognizes that equality, fairness, and
13 opportunity for Maryland residents often require government action and that security,
14 mobility, and economic opportunity are enhanced by the location of a person’s home;
15 and

16 WHEREAS, Discrimination in housing based on a person’s source of income
17 primarily affects persons that the General Assembly has already determined to need
18 legal protection from discrimination such as families with children, people of color, and
19 people with disabilities; and

20 WHEREAS, Eleven states, including Connecticut, Maine, Massachusetts,
21 Minnesota, New Jersey, North Dakota, Oklahoma, Oregon, Utah, Vermont, and
22 Wisconsin, the District of Columbia, and over 30 localities across the country have
23 laws prohibiting discrimination based on a person’s source of income; and

24 WHEREAS, This Act will not prevent private landlords from considering
25 relevant, nondiscriminatory factors in screening rental applicants, including an
26 applicant’s ability to comply with lease terms and prior tenancy history; now,
27 therefore,

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

30 **Article – State Government**

31 20–701.

32 (a) In this subtitle the following words have the meanings indicated.

33 (b) (1) “Disability” means:

34 (i) a physical or mental impairment that substantially limits
35 one or more of an individual’s major life activities;

1 (ii) a record of having a physical or mental impairment that
2 substantially limits one or more of an individual's major life activities; or

3 (iii) being regarded as having a physical or mental impairment
4 that substantially limits one or more of an individual's major life activities.

5 (2) "Disability" does not include the current illegal use of or addiction
6 to:

7 (i) a controlled dangerous substance, as defined in § 5-101 of
8 the Criminal Law Article; or

9 (ii) a controlled substance, as defined in 21 U.S.C. § 802.

10 (c) "Discriminatory housing practice" means an act that is prohibited under §
11 20-705, § 20-706, § 20-707, or § 20-708 of this subtitle.

12 (d) "Dwelling" means:

13 (1) any building, structure, or portion of a building or structure that is
14 occupied, or designed or intended for occupancy, as a residence by one or more
15 families; and

16 (2) any vacant land that is offered for sale or lease for the construction
17 or location on the land of any building, structure, or portion of a building or structure
18 described in item (1) of this subsection.

19 (e) (1) "Familial status" means the status of one or more minors who are
20 domiciled with:

21 (i) a parent or other person having legal custody of the minor;
22 or

23 (ii) the designee of a parent or other person having legal custody
24 of the minor with the written permission of the parent or other person.

25 (2) "Familial status" includes the status of being:

26 (i) a pregnant woman; or

27 (ii) an individual who is in the process of securing legal custody
28 of a minor.

29 (f) "Family" includes a single individual.

30 (g) "In the business of selling or renting dwellings" means:

1 (1) within the preceding 12 months, participating as a principal in
2 three or more transactions involving the sale or rental of any dwelling or any interest
3 in a dwelling;

4 (2) within the preceding 12 months, participating as an agent, other
5 than in the sale of the individual's own personal residence, in providing sales or rental
6 facilities or services in two or more transactions involving the sale or rental of any
7 dwelling or any interest in a dwelling; or

8 (3) being the owner of any dwelling occupied, or designed or intended
9 for occupancy, by five or more families.

10 (h) "Marital status" means the state of being single, married, separated,
11 divorced, or widowed.

12 (i) "Rent" includes to lease, sublease, let, or otherwise grant for a
13 consideration the right to occupy premises not owned by the occupant.

14 **(J) (1) "SOURCE OF INCOME" MEANS ANY LAWFUL SOURCE OF**
15 **MONEY PAID DIRECTLY OR INDIRECTLY TO, OR ON BEHALF OF, A RENTER OR**
16 **BUYER OF HOUSING.**

17 **(2) "SOURCE OF INCOME" INCLUDES INCOME FROM:**

18 **(I) A LAWFUL PROFESSION, OCCUPATION, OR JOB;**

19 **(II) ANY GOVERNMENT OR PRIVATE ASSISTANCE, GRANT,**
20 **LOAN, OR RENTAL ASSISTANCE PROGRAM, INCLUDING LOW-INCOME HOUSING**
21 **ASSISTANCE CERTIFICATES AND VOUCHERS ISSUED UNDER THE UNITED**
22 **STATES HOUSING ACT OF 1937;**

23 **(III) A GIFT, AN INHERITANCE, A PENSION, AN ANNUITY,**
24 **ALIMONY, CHILD SUPPORT, OR OTHER CONSIDERATION OR BENEFIT; OR**

25 **(IV) THE SALE OR PLEDGE OF PROPERTY OR AN INTEREST IN**
26 **PROPERTY.**

27 20-702.

28 (a) It is the policy of the State:

29 (1) to provide for fair housing throughout the State to all, regardless of
30 race, color, religion, sex, familial status, national origin, marital status, sexual
31 orientation, [or] disability, **OR SOURCE OF INCOME**; and

1 (2) to that end, to prohibit discriminatory practices with respect to
2 residential housing by any person, in order to protect and insure the peace, health,
3 safety, prosperity, and general welfare of all.

4 (b) This subtitle:

5 (1) is an exercise of the police power of the State for the protection of
6 the people of the State; and

7 (2) shall be administered and enforced by the Commission and, as
8 provided in this title, enforced by the appropriate State court.

9 20–704.

10 (a) This subtitle does not apply to:

11 (1) the sale or rental of a single–family dwelling, if the dwelling is sold
12 or rented without:

13 (i) the use of the sales or rental facilities or services of any:

14 1. real estate broker, agent, or salesperson;

15 2. agent of any real estate broker, agent, or salesperson;

16 3. person in the business of selling or renting dwellings;

17 or

18 4. agent of a person in the business of selling or renting
19 dwellings; or

20 (ii) the publication, posting, or mailing, after notice, of any
21 advertisement or written notice in violation of this subtitle; and

22 (2) with respect to discrimination on the basis of sex, sexual
23 orientation, [or] marital status, **OR SOURCE OF INCOME, IF THE SOURCE OF**
24 **INCOME IS RENTAL ASSISTANCE:**

25 (i) the rental of rooms in any dwelling, if the owner maintains
26 the dwelling as the owner’s principal residence; or

27 (ii) the rental of any apartment in a dwelling that contains not
28 more than five rental units, if the owner maintains the dwelling as the owner’s
29 principal residence.

1 (b) The use of attorneys, escrow agents, abstractors, title companies, and
2 other similar professional assistance as necessary to perfect or transfer the title to a
3 single-family dwelling does not subject a person to this subtitle if the person otherwise
4 would be exempted under subsection (a) of this section.

5 (c) (1) (i) In this subsection, "housing for older persons" means
6 housing:

7 1. provided under any State or federal program that is
8 specifically designed and operated to assist elderly persons, as defined in the State or
9 federal program;

10 2. intended for, and solely occupied by, persons who are
11 at least 62 years old;

12 3. intended and operated for occupancy by at least one
13 person who is at least 55 years old in each unit; or

14 4. that meets the requirements set forth in regulations
15 adopted by the Secretary of Housing and Urban Development under 42 U.S.C. §
16 3607(b)(2)(C).

17 (ii) "Housing for older persons" includes:

18 1. unoccupied units, if the units are reserved for
19 occupancy by persons who meet the age requirements of subparagraph (i) of this
20 paragraph; or

21 2. units occupied as of September 13, 1988 by persons
22 who do not meet the age requirements of subparagraph (i) of this paragraph, if the
23 new occupant of the unit meets the age requirement.

24 (2) The provisions in this subtitle concerning familial status do not
25 apply to housing for older persons.

26 **(D) (1) IN THIS SUBSECTION, "ASSISTED RENTAL HOUSING**
27 **DEVELOPMENT" MEANS A DEVELOPMENT CONSISTING OF FOUR OR MORE**
28 **CONTIGUOUS RENTAL UNITS IN WHICH 20% OR MORE OF THE UNITS ARE**
29 **REQUIRED TO BE RENTED TO HOUSEHOLDS WITH AN INCOME THAT DOES NOT**
30 **EXCEED 50% OF THE AREA MEDIAN INCOME UNDER A FEDERAL, STATE, OR**
31 **LOCAL GOVERNMENT HOUSING ASSISTANCE PROGRAM.**

32 **(2) THE PROVISIONS OF THIS SUBTITLE CONCERNING**
33 **DISCRIMINATION ON THE BASIS OF SOURCE OF INCOME DO NOT APPLY TO THE**
34 **RENTAL OF A UNIT IN AN ASSISTED RENTAL HOUSING DEVELOPMENT IF THE**
35 **SOURCE OF INCOME IS RENTAL ASSISTANCE.**

1 **(E) THE PROHIBITIONS IN THIS SUBTITLE AGAINST DISCRIMINATION**
2 **BASED ON SOURCE OF INCOME DO NOT:**

3 **(1) PROHIBIT A PERSON FROM DETERMINING THE ABILITY OF A**
4 **POTENTIAL BUYER OR RENTER TO PAY A PURCHASE PRICE OR PAY RENT BY**
5 **VERIFYING, IN A COMMERCIALY REASONABLE AND NONDISCRIMINATORY**
6 **MANNER, THE SOURCE AND AMOUNT OF INCOME OF THE POTENTIAL BUYER OR**
7 **RENTER; OR**

8 **(2) PREVENT A PERSON FROM REFUSING TO CONSIDER INCOME**
9 **DERIVED FROM ANY CRIMINAL ACTIVITY.**

10 20–705.

11 Except as provided in §§ 20–703 and 20–704 of this subtitle, a person may not:

12 (1) refuse to sell or rent after the making of a bona fide offer, refuse to
13 negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to
14 any person because of race, color, religion, sex, disability, marital status, familial
15 status, sexual orientation, [or] national origin, **OR SOURCE OF INCOME;**

16 (2) discriminate against any person in the terms, conditions, or
17 privileges of the sale or rental of a dwelling, or in the provision of services or facilities
18 in connection with the sale or rental of a dwelling, because of race, color, religion, sex,
19 disability, marital status, familial status, sexual orientation, [or] national origin, **OR**
20 **SOURCE OF INCOME;**

21 (3) make, print, or publish, or cause to be made, printed, or published,
22 any notice, statement, or advertisement with respect to the sale or rental of a dwelling
23 that indicates any preference, limitation, or discrimination based on race, color,
24 religion, sex, disability, marital status, familial status, sexual orientation, [or]
25 national origin, **OR SOURCE OF INCOME**, or an intention to make any preference,
26 limitation, or discrimination;

27 (4) represent to any person, because of race, color, religion, sex,
28 disability, marital status, familial status, sexual orientation, [or] national origin, **OR**
29 **SOURCE OF INCOME**, that any dwelling is not available for inspection, sale, or rental
30 when the dwelling is available; or

31 (5) for profit, induce or attempt to induce any person to sell or rent
32 any dwelling by representations regarding the entry or prospective entry into the
33 neighborhood of a person of a particular race, color, religion, sex, disability, marital
34 status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF**
35 **INCOME.**

1 20-707.

2 (a) In this section, “residential real estate–related transaction” means:

3 (1) the making or purchasing of loans or providing other financial
4 assistance:

5 (i) for purchasing, constructing, improving, repairing, or
6 maintaining a dwelling; or

7 (ii) secured by residential real estate; or

8 (2) the selling, brokering, or appraising of residential real property.

9 (b) (1) A person whose business includes engaging in residential real
10 estate–related transactions may not discriminate against any person in making
11 available a transaction, or in the terms or conditions of a transaction, because of race,
12 color, religion, sex, disability, marital status, familial status, sexual orientation, [or]
13 national origin, **OR SOURCE OF INCOME**.

14 (2) Paragraph (1) of this subsection does not prohibit a person engaged
15 in the business of furnishing appraisals of real property from taking into consideration
16 factors other than race, color, religion, sex, disability, marital status, familial status,
17 sexual orientation, [or] national origin, **OR SOURCE OF INCOME**.

18 (c) A person may not, because of race, color, religion, sex, disability, marital
19 status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF**
20 **INCOME**:

21 (1) deny a person access to, or membership or participation in, a
22 multiple–listing service, real estate brokers’ organization, or other service,
23 organization, or facility relating to the business of selling or renting dwellings; or

24 (2) discriminate against a person in the terms or conditions of
25 membership or participation.

26 20-1103.

27 (a) In this section, “disability”, “dwelling”, “familial status”, “marital status”,
28 [and] “rent”, **AND “SOURCE OF INCOME”** have the meanings stated in § 20-701 of
29 this title.

30 (b) Whether or not acting under color of law, a person may not, by force or
31 threat of force, willfully injure, intimidate, interfere with, or attempt to injure,
32 intimidate, or interfere with:

1 (1) any person because of race, color, religion, sex, disability, marital
2 status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF**
3 **INCOME** and because the person is or has been:

4 (i) selling, purchasing, renting, financing, occupying, or
5 contracting or negotiating for the sale, purchase, rental, financing, or occupation of
6 any dwelling; or

7 (ii) applying for or participating in any service, organization, or
8 facility relating to the business of selling or renting dwellings;

9 (2) any person because the person is or has been, or in order to
10 intimidate the person or any other person or any class of persons from:

11 (i) participating, without discrimination on account of race,
12 color, religion, sex, disability, marital status, familial status, sexual orientation, [or]
13 national origin, **OR SOURCE OF INCOME**, in any of the activities, services,
14 organizations, or facilities described in item (1) of this subsection; or

15 (ii) affording another person or class of persons the opportunity
16 or protection to participate in any of the activities, services, organizations, or facilities
17 described in item (1) of this subsection; or

18 (3) any person because the person is or has been, or in order to
19 discourage the person or any other person from:

20 (i) lawfully aiding or encouraging other persons to participate,
21 without discrimination on account of race, color, religion, sex, disability, marital
22 status, familial status, sexual orientation, [or] national origin, **OR SOURCE OF**
23 **INCOME**, in any of the activities, services, organizations, or facilities described in item
24 (1) of this subsection; or

25 (ii) participating lawfully in speech or peaceful assembly
26 opposing any denial of the opportunity to participate in any of the activities, services,
27 organizations, or facilities described in item (1) of this subsection.

28 (c) A person who violates this section is guilty of a misdemeanor and on
29 conviction is subject to:

30 (1) imprisonment not exceeding 1 year or a fine not exceeding \$1,000
31 or both;

32 (2) if the violation results in bodily injury, imprisonment not
33 exceeding 10 years or a fine not exceeding \$10,000 or both; or

1 (3) if the violation results in death, imprisonment not exceeding life.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not limit
3 the rights or remedies that otherwise are available to a landlord or tenant under any
4 other law.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2012.