

HOUSE BILL 172

D5, N1
HB 759/16 – ENV

7lr1614
CF SB 728

By: **Delegates Lafferty and McIntosh**

Introduced and read first time: January 19, 2017

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2017

CHAPTER _____

1 AN ACT concerning

2 **Home Act of 2017**

3 FOR the purpose of expanding the housing policy of the State to include providing for fair
4 housing to all citizens regardless of source of income; prohibiting a person from
5 refusing to sell or rent a dwelling to any person because of source of income; requiring
6 a certain public housing agency to develop and make available a certain list of certain
7 zip codes; providing that certain provisions of law do not apply to the rental of a
8 dwelling unit located in a certain zip code; establishing certain qualifications and
9 limitations on the general prohibition against discrimination in housing based on
10 source of income; prohibiting a person from discriminating against any person in the
11 terms, conditions, or privileges of the sale or rental of a dwelling because of source
12 of income; prohibiting a person from making, printing, or publishing certain types of
13 materials with respect to the sale or rental of a dwelling that indicate a preference,
14 limitation, or discrimination on the basis of source of income; prohibiting a person
15 from falsely representing that a dwelling is not available for inspection, sale, or
16 rental based on source of income; prohibiting a person from inducing or attempting
17 to induce, for profit, a person to sell or rent a dwelling by making certain
18 representations relating to the entry or prospective entry into the neighborhood of a
19 person having a particular source of income; requiring the owner of an apartment
20 complex to rent or make available for rent a certain percentage of the units to persons
21 who receive certain low-income housing assistance; establishing that the rental of a
22 certain percentage of units in an apartment complex to certain persons is an
23 affirmative defense in a certain action for discrimination based on source of income;
24 prohibiting a person from claiming a certain affirmative defense unless the person
25 within a certain time period has filed a certain certificate indicating the percentage

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 of units in an apartment complex that are rented or made available to certain
 2 persons; requiring the Department of Housing and Community Development to
 3 establish a form and procedures for completing a certain certificate; requiring the
 4 Department and all public housing agencies to maintain certain records; prohibiting
 5 a person whose business includes engaging in residential real estate transactions
 6 from discriminating against any person in making available a transaction, or in the
 7 terms or conditions of a transaction, because of source of income; prohibiting a person
 8 from denying a person, based on source of income, access to or membership or
 9 participation in a service, an organization, or a facility relating to the business of
 10 selling or renting dwellings or from discriminating against a person in the terms or
 11 conditions of membership or participation; prohibiting a person from, by force or
 12 threat of force, willfully injuring, intimidating, or interfering with any person
 13 because of source of income and because the person is negotiating for the sale or
 14 rental of any dwelling or participating in any service relating to the business of
 15 selling or renting dwellings; ~~defining a certain term~~ certain terms; providing for the
 16 application of this Act; providing that this Act does not limit the rights or remedies
 17 that are otherwise available to a landlord or tenant under any other law; and
 18 generally relating to prohibitions against discrimination in housing based on source
 19 of income.

20 BY repealing and reenacting, with amendments,

21 Article – State Government

22 Section 20–701, 20–702, 20–704, 20–705, 20–707, and 20–1103

23 Annotated Code of Maryland

24 (2014 Replacement Volume and 2016 Supplement)

25 BY adding to

26 Article – State Government

27 Section 20–704.1 and 20–705.1

28 Annotated Code of Maryland

29 (2014 Replacement Volume and 2016 Supplement)

30 Preamble

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

34 WHEREAS, Discrimination in housing based on a person's source of income
 35 primarily affects persons that the General Assembly has already determined to need legal
 36 protection from discrimination such as families with children, people of color, and people
 37 with disabilities; and

38 WHEREAS, Twelve states, including California, Connecticut, Maine,
 39 Massachusetts, Minnesota, New Jersey, North Dakota, Oklahoma, Oregon, Utah, Vermont,
 40 and Wisconsin, the District of Columbia, and more than 50 localities across the country
 41 have laws prohibiting discrimination based on a person's source of income; and

1 WHEREAS, This Act will not prevent private landlords from considering relevant,
2 nondiscriminatory factors in screening rental applicants, including an applicant's ability to
3 comply with lease terms and prior tenancy history; and

4 WHEREAS, This Act seeks to deconcentrate poverty by providing additional
5 opportunities for tenants utilizing public subsidies to live in neighborhoods other than the
6 neighborhoods in which those individuals are currently and disproportionately residing;
7 now, therefore,

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

10 **Article – State Government**

11 20–701.

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

13 (b) (1) “Disability” means:

14 (i) a physical or mental impairment that substantially limits one or
15 more of an individual's major life activities;

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

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

20 (2) “Disability” does not include the current illegal use of or addiction to:

21 (i) a controlled dangerous substance, as defined in § 5–101 of the
22 Criminal Law Article; or

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

24 (c) “Discriminatory housing practice” means an act that is prohibited under §
25 20–705, § 20–706, § 20–707, or § 20–708 of this subtitle.

26 (d) “Dwelling” means:

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

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

4 (e) (1) “Familial status” means the status of one or more minors who are
5 domiciled with:

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

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

9 (2) “Familial status” includes the status of being:

10 (i) a pregnant woman; or

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

13 (f) “Family” includes a single individual.

14 **(G) “HOUSING ASSISTANCE VOUCHER” MEANS A LOW-INCOME HOUSING**
15 **ASSISTANCE VOUCHER OR CERTIFICATE ISSUED UNDER THE UNITED STATES**
16 **HOUSING ACT OF 1937.**

17 ~~(E)~~ **(H)** “In the business of selling or renting dwellings” means:

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

20 (2) within the preceding 12 months, participating as an agent, other than
21 in the sale of the individual’s own personal residence, in providing sales or rental facilities
22 or services in two or more transactions involving the sale or rental of any dwelling or any
23 interest in a dwelling; or

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

26 ~~(F)~~ **(I)** “Marital status” means the state of being single, married, separated,
27 divorced, or widowed.

28 ~~(G)~~ **(J)** “Rent” includes to lease, sublease, let, or otherwise grant for a
29 consideration the right to occupy premises not owned by the occupant.

1 ~~(J)~~ **(K)** **(1)** “SOURCE OF INCOME” MEANS ANY LAWFUL SOURCE OF
2 MONEY PAID DIRECTLY OR INDIRECTLY TO OR ON BEHALF OF A RENTER OR BUYER
3 OF HOUSING.

4 **(2)** “SOURCE OF INCOME” INCLUDES INCOME FROM:

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

6 **(II)** ANY GOVERNMENT OR PRIVATE ASSISTANCE, GRANT, LOAN,
7 OR RENTAL ASSISTANCE PROGRAM, INCLUDING LOW-INCOME HOUSING
8 ASSISTANCE CERTIFICATES AND VOUCHERS ISSUED UNDER THE UNITED STATES
9 HOUSING ACT OF 1937;

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

12 **(IV)** THE SALE OR PLEDGE OF PROPERTY OR AN INTEREST IN
13 PROPERTY.

14 20-702.

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

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

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

22 (b) This subtitle:

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

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

27 20-704.

28 (a) This subtitle does not apply to:

29 (1) the sale or rental of a single-family dwelling, if the dwelling is sold or
30 rented without:

- 1 (i) the use of the sales or rental facilities or services of any:
- 2 1. real estate broker, agent, or salesperson;
- 3 2. agent of any real estate broker, agent, or salesperson;
- 4 3. person in the business of selling or renting dwellings; or
- 5 4. agent of a person in the business of selling or renting
- 6 dwellings; or

7 (ii) the publication, posting, or mailing, after notice, of any

8 advertisement or written notice in violation of this subtitle; and

9 (2) with respect to discrimination on the basis of sex, sexual orientation,

10 gender identity, [or] marital status, **OR SOURCE OF INCOME IF THE SOURCE OF INCOME**

11 **IS RENTAL ASSISTANCE:**

12 (i) the rental of rooms in any dwelling, if the owner maintains the

13 dwelling as the owner's principal residence; or

14 (ii) the rental of any apartment in a dwelling that contains not more

15 than five rental units, if the owner maintains the dwelling as the owner's principal

16 residence.

17 (b) The use of attorneys, escrow agents, abstractors, title companies, and other

18 similar professional assistance as necessary to perfect or transfer the title to a

19 single-family dwelling does not subject a person to this subtitle if the person otherwise

20 would be exempted under subsection (a) of this section.

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

22 1. provided under any State or federal program that is

23 specifically designed and operated to assist elderly persons, as defined in the State or

24 federal program;

25 2. intended for, and solely occupied by, persons who are at

26 least 62 years old;

27 3. intended and operated for occupancy by at least one person

28 who is at least 55 years old in each unit; or

29 4. that meets the requirements set forth in regulations

30 adopted by the Secretary of Housing and Urban Development under 42 U.S.C.

31 § 3607(b)(2)(C).

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

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

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

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

8 **(D) (1) IN THIS SUBSECTION, "PUBLIC HOUSING AGENCY" MEANS A**
9 **PUBLIC HOUSING AGENCY IN A JURISDICTION IN THE STATE THAT HAS MORE THAN**
10 **100,000 TENANT-OCCUPIED DWELLING UNITS BASED ON THE MOST RECENT**
11 **AMERICAN COMMUNITY SURVEY 5-YEAR ESTIMATE PUBLISHED BY THE UNITED**
12 **STATES CENSUS BUREAU.**

13 **(2) EACH PUBLIC HOUSING AGENCY SHALL DEVELOP ANNUALLY AND**
14 **MAKE AVAILABLE UNDER THE PUBLIC INFORMATION ACT A LIST OF THE ZIP CODES**
15 **IN THE JURISDICTION OF THE PUBLIC HOUSING AGENCY IN WHICH AT LEAST 6% OF**
16 **THE TOTAL NUMBER OF HOUSING ASSISTANCE VOUCHERS ADMINISTERED BY THE**
17 **PUBLIC HOUSING AGENCY ARE USED.**

18 **(3) THE PROVISIONS IN THIS SUBTITLE CONCERNING**
19 **DISCRIMINATION ON THE BASIS OF SOURCE OF INCOME DO NOT APPLY TO THE**
20 **RENTAL OF A DWELLING UNIT LOCATED IN A ZIP CODE THAT IS INCLUDED ON A LIST**
21 **DEVELOPED BY A PUBLIC HOUSING AGENCY IN ACCORDANCE WITH PARAGRAPH (2)**
22 **OF THIS SUBSECTION.**

23 **20-704.1.**

24 ~~(D)~~ **THE PROHIBITIONS IN THIS SUBTITLE AGAINST DISCRIMINATION BASED**
25 **ON SOURCE OF INCOME DO NOT:**

26 **(1) PROHIBIT A PERSON FROM DETERMINING THE ABILITY OF A**
27 **POTENTIAL BUYER OR RENTER TO PAY A PURCHASE PRICE OR PAY RENT BY**
28 **VERIFYING IN A COMMERCIALY REASONABLE AND NONDISCRIMINATORY MANNER**
29 **THE SOURCE AND AMOUNT OF INCOME OF THE POTENTIAL BUYER OR RENTER; OR**

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

32 20-705.

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

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

5 (2) discriminate against any person in the terms, conditions, or privileges
6 of the sale or rental of a dwelling, or in the provision of services or facilities in connection
7 with the sale or rental of a dwelling, because of race, color, religion, sex, disability, marital
8 status, familial status, sexual orientation, gender identity, [or] national origin, **OR**
9 **SOURCE OF INCOME;**

10 (3) make, print, or publish, or cause to be made, printed, or published, any
11 notice, statement, or advertisement with respect to the sale or rental of a dwelling that
12 indicates any preference, limitation, or discrimination based on race, color, religion, sex,
13 disability, marital status, familial status, sexual orientation, gender identity, [or] national
14 origin, **OR SOURCE OF INCOME,** or an intention to make any preference, limitation, or
15 discrimination;

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

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

24 **20-705.1.**

25 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
26 **INDICATED.**

27 **(2) “APARTMENT COMPLEX” MEANS:**

28 **(I) A DWELLING WITH SEVEN OR MORE UNITS; OR**

29 **(II) A GROUP OF CONTIGUOUS DWELLINGS THAT IS OWNED OR**
30 **MANAGED BY THE SAME PERSON.**

31 **(3) “DEPARTMENT” MEANS THE DEPARTMENT OF HOUSING AND**
32 **COMMUNITY DEVELOPMENT.**

1 **(B) THE OWNER OF AN APARTMENT COMPLEX SHALL RENT OR MAKE**
2 **AVAILABLE FOR RENT 15% OF THE UNITS IN THE APARTMENT COMPLEX, ROUNDED**
3 **DOWN TO THE NEAREST WHOLE NUMBER, TO PERSONS WHO RECEIVE HOUSING**
4 **ASSISTANCE VOUCHERS.**

5 **(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN AN ACTION**
6 **BROUGHT UNDER § 20-705 OF THIS SUBTITLE FOR ALLEGED DISCRIMINATION**
7 **BASED ON SOURCE OF INCOME IN THE RENTAL OF A UNIT IN AN APARTMENT**
8 **COMPLEX, IT SHALL BE AN AFFIRMATIVE DEFENSE IF 15% OF THE UNITS IN THE**
9 **APARTMENT COMPLEX, ROUNDED DOWN TO THE NEAREST WHOLE NUMBER, ARE**
10 **RENTED TO PERSONS WHO RECEIVE HOUSING ASSISTANCE VOUCHERS.**

11 **(2) A PERSON MAY NOT CLAIM AN AFFIRMATIVE DEFENSE UNDER**
12 **PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE PERSON HAS FILED WITHIN THE**
13 **IMMEDIATELY PRECEDING 12 MONTHS WITH THE PUBLIC HOUSING AGENCY FOR**
14 **THE JURISDICTION IN WHICH THE APARTMENT COMPLEX IS LOCATED OR, IF**
15 **APPROPRIATE, THE DEPARTMENT, A CERTIFICATE AS SPECIFIED UNDER**
16 **SUBSECTION (D) OF THIS SECTION.**

17 **(D) THE DEPARTMENT SHALL ESTABLISH A FORM AND PROCEDURES FOR**
18 **COMPLETING A CERTIFICATE THAT INDICATES THE PERCENTAGE OF UNITS IN AN**
19 **APARTMENT COMPLEX THAT ARE RENTED OR MADE AVAILABLE FOR RENT TO**
20 **PERSONS WHO RECEIVE HOUSING ASSISTANCE VOUCHERS.**

21 **(E) THE DEPARTMENT AND ALL PUBLIC HOUSING AGENCIES SHALL**
22 **MAINTAIN RECORDS OF CERTIFICATES FILED IN ACCORDANCE WITH THIS SECTION.**

23 **(F) THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING**
24 **JURISDICTIONS AS LONG AS THE JURISDICTION DOES NOT WEAKEN THE**
25 **PROTECTIONS AGAINST DISCRIMINATION BASED ON SOURCE OF INCOME IN THE**
26 **RENTAL OF A DWELLING IN ITS LOCAL LAWS OR REGULATIONS AS THOSE LOCAL**
27 **LAWS OR REGULATIONS EXIST ON OCTOBER 1, 2017:**

28 **(1) CITY OF ANNAPOLIS;**

29 **(2) CITY OF FREDERICK;**

30 **(3) FREDERICK COUNTY;**

31 **(4) HOWARD COUNTY; AND**

32 **(5) MONTGOMERY COUNTY.**

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

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

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

6 (ii) secured by residential real estate; or

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

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

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

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

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

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

25 20–1103.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HOUSE BILL 172

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

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.