

SENATE BILL 687

L6, C8

1lr1051
CF HB 90

By: **Senator Smith**

Introduced and read first time: February 3, 2021

Assigned to: Education, Health, and Environmental Affairs

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)

29 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Land Use
2 Section 3–114
3 Annotated Code of Maryland
4 (2012 Volume and 2020 Supplement)

5 Preamble

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

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

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

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

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

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

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

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

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

35 **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:

32 (1) A SUMMARY OF FAIR HOUSING ISSUES IN THE POLITICAL

1 SUBDIVISION AND AN ASSESSMENT OF THE POLITICAL SUBDIVISION'S POLICIES AND
2 PRACTICES RELATING TO HOUSING AND COMMUNITY DEVELOPMENT, FAIR HOUSING
3 ENFORCEMENT, AND FAIR HOUSING OUTREACH CAPACITY;

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

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

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

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

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

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

26 (D) THIS SECTION DOES NOT:

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

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

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

Article – Land Use

3–114.

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

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

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

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

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

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

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

(1) workforce housing; and

(2) low–income housing.

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

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

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

SECTION 3. AND BE IT FURTHER ENACTED, That:

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

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

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

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