

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 875

(Senators Waldstreicher and Lee)

Judicial Proceedings

Environment and Transportation

Discrimination in Housing – Citizenship, Immigration Status, and National Origin

This bill elevates citizenship and immigration status to protected classes for purposes of State fair housing laws and prohibits discriminatory practices in residential real estate transactions and the sale or rental of a dwelling because of a person’s citizenship or immigration status. In connection with the rental of a dwelling, the bill also generally prohibits a person from inquiring about, disclosing, or threatening to disclose a person’s citizenship, immigration status, or national origin, as specified, unless specifically required by State or federal law or court order. The bill does not prohibit requesting information or documentation as part of a standard rental practice to verify the financial qualifications or identity of a potential renter, if the same information or documentation is requested of every potential renter. In addition, the bill defines “citizenship,” “immigration status,” and “national origin” for purposes of State fair housing laws.

Fiscal Summary

State Effect: General fund expenditures may increase at least minimally for the Maryland Commission on Civil Rights (MCCR), as discussed below. The bill does not materially impact the workload of the Judiciary or the Office of Administrative Hearings. The bill’s penalty provisions are not anticipated to materially impact State expenditures or revenues.

Local Effect: The bill does not materially impact the workload of the circuit courts. The bill’s penalty provisions are not anticipated to materially impact local expenditures or revenues.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Select Definitions

“Citizenship” means the actual or perceived citizenship of a person.

“Immigration status” means the actual or perceived immigration status of a person.

“National origin” means the actual or perceived country or geographic area of origin of a person or the ancestors of a person. National origin includes the birthplace, ethnicity, ancestry, name, culture, and language of a person or the ancestors of a person.

Prohibitions Against Discriminatory Housing Practices

The bill prohibits taking the following actions because of a person’s citizenship or immigration status: (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 the 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 citizenship or immigration status; (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 of a particular citizenship or immigration status.

The bill prohibits a person whose business includes engaging in transactions related to residential real estate from discriminating against a person in making available a transaction, or in the terms or conditions of a transaction, because of the person’s citizenship or immigration status. However, a real estate appraiser may take into consideration factors other than these statuses. The bill also prohibits a person from denying, because of a person’s citizenship or immigration status, that person’s 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.

In connection with the rental of a dwelling, the bill prohibits a person, unless specifically required by State or federal law or court order, from (1) inquiring about a person's citizenship, immigration status, or national origin or (2) disclosing or threatening to disclose information regarding a person's citizenship, immigration status, or national origin to any other person, including an immigration authority or a law enforcement agency. However, this prohibition does not restrict (1) complying with a legal obligation or acting pursuant to a condition for funding under a federal, State, or local government program; (2) requesting information or documentation as part of a standard rental practice to verify the financial qualifications or identity of a potential renter, if the same information or documentation is requested of every potential renter; (3) providing notice to a renter regarding conduct by the renter that may violate an applicable rental agreement or law or regulation; or (4) responding to an inquiry from a law enforcement agency that is part of a criminal investigation.

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, financing, or occupation of a dwelling, or to attempt to do so, because of the person's citizenship or immigration status. Existing criminal penalties relating to these activities are expanded to include the prohibition against discrimination based on citizenship or immigration status.

Current Law: Housing discrimination because of race, sex, color, religion, national origin, marital status, familial status, sexual orientation, gender identity, source of income, or disability is prohibited. There is no provision specifically prohibiting housing discrimination based on citizenship or immigration status.

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, financing, or occupation of a dwelling, or to attempt to do so, is a misdemeanor. A violator is subject to a maximum penalty of 1 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.

State Expenditures: General fund expenditures may increase at least minimally for MCCR. Although MCCR receives federal reimbursement for investigating complaints

related to housing discrimination from the U.S. Department of Housing and Urban Development, MCCR advises that because immigration status is not a protected class under the federal Fair Housing Act, it would not be able to receive federal reimbursement for any expenses incurred relating to investigating these complaints. Accordingly, MCCR needs to ensure that investigating any additional cases does not negatively impact its case closure rate, which may impact federal funding. Although existing staff can investigate a small number of additional cases, an additional investigator may be required to the extent that MCCR receives a large number of complaints. *For illustrative purposes only*, if an additional investigator is required, general fund expenditures increase by approximately \$80,000 annually. Additional expenditures may also be incurred for costs associated with training and education.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 928 (Delegate Palakovich Carr) - Environment and Transportation.

Information Source(s): Maryland Commission on Civil Rights; Caroline, Howard, Montgomery, and Prince George's counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Housing and Community Development; Department of Public Safety and Correctional Services; Department of Legislative Services

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