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Health and Government Operations
Committee

Chair

Government Operations and Estates
and Trusts Subcommittee

House Chair

Joint Committee on Administrative,
Executive, and Legislative Review



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Testimony of Delegate Samuel I. Rosenberg
Before the Health and Government Operations Committee In Support Of
House Bill 1561
Discriminatory Housing Practices – Intent

Madam Chair and members of the Committee:

The Fair Housing Act (FHA), which prohibits discrimination in housing sales or rentals on the basis of race, color, national origin, religion, sex, familial status, and disability, is a vital component of the federal legislation enacted during the civil rights movement.

After decades of incremental advancements in civil rights, our federal government is now attempting to make housing discrimination easier to get away with. As the Department of Housing and Urban Development (HUD) seeks to roll back citizen protections, it is our responsibility to fortify our own state laws so that Maryland continues to move forward, not backwards. This is why we need House Bill 1561.

The FHA entitles a person to bring a discrimination claim under any of three circumstances. One such circumstance is where a law is not discriminatory on its face, but has a measurable discriminatory impact on groups of people from, for example, different races or different religions. This is also referred to as disparate impact.

On August 19, 2019, HUD Secretary Ben Carson proposed a significant change to FHA's disparate impact standard. This change would shift the burden of proof in such a way that renders the law essentially unenforceable. The following examples provide just a few illustrations of the

types of discriminatory laws and policies that would be nearly impossible to strike down once the HUD changes take effect.¹

- An apartment complex only allows people with full-time jobs. This bars disabled veterans and other people with disabilities who may not be able to work full-time, even though they can otherwise afford the apartment.
- A city or town decides to prohibit all housing that would be affordable to working-class people, and that has the effect of excluding most or all people of color in that region.
- A lender has a policy of allowing its loan officers to overcharge consumers at the loan officer's discretion. The result is that women are charged higher prices than their male counterparts—even when both have the same credit profiles.

HB1561 would codify the disparate impact standard. It would explicitly state that it is the policy of the State to prohibit practices or acts that have a discriminatory effect, regardless of the actor's intent. It also carves out exceptions for practices which advance legitimate business necessities which could not be accomplished by any less discriminatory means.

Additionally, HB1561 would strengthen the disparate impact standard and bring it up to date by expanding the classes of people who are protected from discriminatory practices in Maryland to also include the categories of marital status, sexual orientation, gender identity, and national origin.

We can't control federal laws and policies, but we can institutionalize important citizen protections to make it clear that Maryland will not tolerate housing discrimination.

I urge a favorable report.

March 6, 2020

¹ National Fair Housing Alliance-[https://nationalfairhousing.org/disperate impact/](https://nationalfairhousing.org/disperate%20impact/)