



**THE PRINCE GEORGE'S COUNTY GOVERNMENT**  
**Office of Audits and Investigations**

October 16, 2019

**MEMORANDUM**

TO: Robert J. Williams, Jr.  
Council Administrator

William M. Hunt  
Deputy Council Administrator

THRU: David H. Van Dyke *DHV*  
County Auditor

Josh Hamlin *JH*  
Senior Policy Analyst

FROM: Inez N. Claggett *INC*  
Senior Legislative Auditor

Warren E. Burris *WEB*  
Senior Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement  
CB-038-2019 Fair Housing

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***Legislative Summary***

CB-38-2019, sponsored by Councilpersons Glaros and Taveras, was presented on July 23, and discussed in the Planning, Housing, and Economic Development Committee on September 11. CB-38-2019 would amend the County's existing Human Relation Commission law (Subtitle 2, Division 12 of the County Code to prohibit discrimination in housing on the basis of "immigration status," "citizenship status," and "source of income." Staff anticipates that a proposed Draft 2A of the Bill will be before the Committee for discussion.

Proposed Draft 2A of CB-38-2019 would make the following unlawful housing practices:

- to discriminate by inquiring about immigration status, citizenship status or source of income;
- to discriminate by requiring proof of immigration status or citizenship status or invalidating verifiable source of income;
- to discriminate by requesting in any type of background check, credit check, or other screening process proof that reveals immigration status or citizenship status, such as a social security card, unless an alternative is provided that does not reveal immigration status or citizenship status, such as a taxpayer identification number;

**14741 Governor Oden Bowie Drive, Upper Marlboro, Maryland 20772**  
**VOICE (301) 952-3431; FAX (301) 780-2097; TDD (301) 925-5167**

- to discriminate by disclosing, reporting, or threatening to report immigration status or citizenship status to anyone for any purpose; and
- to discriminate by evicting or otherwise attempting to obtain possession of a housing unit because of the person's immigration status, citizenship status or source of income unless the remedy is sought to comply with law or a court order.

Proposed Draft 2A would define "source of income" as "any lawful verifiable source of money paid directly or indirectly to a renter or buyer of a housing unit, including:

- (1) Income received through any lawful profession or occupation;
- (2) Federal, state, or local government assistance, including housing choice vouchers, medical assistance subsidies, rental assistance, and rent supplements;
- (3) Any inheritance, pension, annuity, alimony, child support, trust, or investment accounts;
- (4) Any gift verified by a letter or other means but, unless it is recurring throughout a tenancy, the gift may support one-time expenses only, such as a security deposit or pet fee; and
- (5) Any sale or pledge of property if the sale or pledge will result in proceeds inuring to the recipient's benefit within sixty days of the application to rent a housing unit, purchase a housing unit, or purchase an interest in a housing unit.

Proposed Draft 2A would also add specific prohibitions related to immigration status and citizenship status to Section 2-210 Under these provisions, a person, whether acting for monetary gain or not, *shall not*:

- discriminate by inquiring about immigration status or citizenship status in connection with the sale, lease, sublease, assignment, or other transfer of a housing unit;
- discriminate by requiring documentation, information, or other proof of immigration status or citizenship status;
- discriminate in the sale, lease, sublease, assignment, or other transfer of a housing unit by requiring proof of immigration status or citizenship status, such as a social security number, without providing an alternative that does not reveal immigration status or citizenship status, such as an individual taxpayer identification number;
- discriminate by disclosing, reporting, or threatening to disclose or report immigration status or citizenship status to anyone, including an immigration authority, law enforcement agency, or local, state, or federal agency, for the purpose of inducing a person to vacate the housing unit or for the purpose of retaliating against a person for the filing of a claim or complaint; and
- discriminate by evicting a person from a housing unit or by otherwise attempting to obtain possession of a housing unit because of the person's immigration status or citizenship status unless the remedy is sought to comply with a federal or state law or a court order.

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### ***Background/Current Law***

Division 12 of Subtitle 2 of the County Code establishes the Human Relations Commission and charges it with, among other things, "investigat[ing], and whenever necessary, hold[ing] hearings on any matter wherein an allegation has been made that an employee of a County agency, department, or board, has denied a person his civil rights, civil liberties or has adversely affected that person in the areas of housing, employment, law enforcement, education, public accommodations, or commercial real estate.

With regard to housing **only**, Section 2-210(a)(1) through (5) sets out six prohibited activities in relation to the following protected classes: (1) race, (2) religion, (3) color, (4) sex, (5) national origin, (6) age, (7) occupation, (8) marital status, (9) political opinion, (10) personal appearance, (11) sexual orientation, (12)

physical or mental handicap, or (13) familial status. In addition, Section 2-210(a)(6) through (8) provide additional specific protections for persons with disabilities. Finally, Section 2-210(a)(9) provides a general exception when a tenancy would be a threat to the health and safety of others or result in substantial damage to the property of others.

As noted above, CB-38-2019 would add “immigration status,” “citizenship status,” and “source of income” to these protected classes for the purposes of housing only.

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***Resource Personnel***

Council District 2 Staff

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***Assumptions, Methodology, and Policy Analysis***

- Immigrants and people of color have long been subject to discrimination in the housing -rental and mortgage—industry based on race, color, religious status among a myriad of other concerns. Whether redlining, increased mortgages, subprime mortgages, there is a history as long as the existence of America. There are two main federal laws designed to protect people’s rights to housing and prohibit housing discrimination: Title VI of the Civil Rights Act of 1964 and the Fair Housing Act (Title VIII of the Civil Rights Act of 1968). The Fair Housing Act protects people from discrimination on the basis of race, color, religion, sex, familial status, disability or national origin. However, since the tragedy of September 11, 2001 (9/11), the rights of the rights of citizens and immigrants have been challenged. Although the Fair Housing Act protects against citizens, on the basis of race, color, religion, sex, familial status, disability or national origin, there are some entities that are challenging the fact that National Origin refers to ancestry and alienage, which would not protect immigrants or those with legal citizenship status. In a recent court case, the appellate court used an old Supreme Court verbiage that stated, “national origin discrimination as defined in Title VII encompasses discrimination based on one’s ancestry, but not discrimination based on citizenship or immigration status.”
- Furthermore, there have been recent increases of discrimination of the sources of income used to qualify for housing, including Social Security benefits, Individual Tax Payer Identification Numbers (ITIN), housing vouchers including veterans, Housing Choice and Rapid-Rehousing vouchers. These sources of income represent verifiable and valid forms of payments in the forms of government subsidy, which landlords are starting to disallow and/or discriminate against. Landlord discrimination against voucher holders can also deepen the burdens, economic and otherwise, of vulnerable households. Voucher discrimination only increases the difficulty of securing healthy, well-maintained, fairly-priced housing. A recent report by the Center on Budget and Policy Priorities concluded that there is much less discrimination when “Source of Income” laws blocking voucher discrimination. The recently updated report by the Poverty Race Action Council provides a detailed list of the states and local jurisdictions with “Source of Income” Laws enacted.
- In 1996, the Internal Revenue Service created the Individual Taxpayer Identification Number (ITIN), which is a tax processing number issued by the Internal Revenue Service. The IRS issues ITINs to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain, a Social Security number (SSN) from the Social Security Administration (SSA). ITIN to provide a way for noncitizens who earn income in the United States, including legally-present noncitizens who do not have Social Security numbers, to pay taxes on money earned in the United States while not being technically employed by a U.S employer.

- Therefore, this bill would prohibit landlords from asking for social security numbers as a means of trying to verify immigration status and/or credit checks. Though research, it has been discovered that landlords can verify rental history without Social Security Numbers. Experian and Transunion provide mechanisms to ascertain the person's history of repayment.
- The legislation would not require landlords to rent to individuals with vouchers or other means of sources of income. The legislation does prohibit landlords from using this as the only means of disqualification when the applicant has demonstrated and met all of the qualifying characteristics of a renter/purchaser.

***Other Jurisdictions Implementing Anti-Discrimination Legislation***

- City of Annapolis
- Baltimore City
- Anne Arundel County
- Frederick County
- Howard County
- Montgomery County
- District of Columbia

The proposed revisions to the Human Relations Commission Law to prohibit discrimination in housing based upon "immigration status," "citizenship status," or "source of income." could potentially present an administrative burden on the Human Relations Commission if a potentially significant number of allegations are made against County employees related to violation of the additional proposed protected classes. This burden could require the Director of the Human Relations Commission (Agency) to determine that additional resources, administrative and/or personnel, are needed to comply with the County's Human Relations Commission Law requiring the investigation and possible holding of a hearing related to the allegations.

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***Fiscal Impact***

- Direct Impact

Adoption of CB-038-2019 may have a negative fiscal impact on the County should the Director of the Human Relations Commission request, and be approved to receive, additional resources to remain in compliance with the County Code. We are unable to determine a realistic estimate of impact because we anticipate any request for additional resources would be specific in nature and would cater to the needs of the Agency.

- Indirect Impact

Adoption of CB-038-2019 should not have an adverse fiscal impact on the County.

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***Appropriated in the Current Fiscal Year Budget***

No.

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*Issues for Committee Consideration*

- Increased outreach to immigrant community will likely be needed to ensure adequate enforcement.
  - Enactment may necessitate increased resources to the Human Relations Commission, as adding protections will likely increase the number of complaints.
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*Effective Date*

The proposed Bill shall be effective forty-five (45) calendar days after it becomes law.

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If you require additional information, or have questions about this fiscal impact statement, please call me.