

Introduced 11-1-2021
Public Hearing 11-15-2021
Council Action 12-6-2021
Executive Action 12-13-2021
Effective Date 2-12-2022

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No. 17

Bill No. 85-2021

Introduced by: The Chairperson at the request of the County Executive

AN ACT to update County housing discrimination law to comply with Subtitle 7 of Title 20 of the State Government Article of the Annotated Code of Maryland by amending the definition of source of income, amending provisions related to unlawful discrimination in the sale and rental of housing, amending provisions related to unlawful discrimination based on source of income, amending certain exemptions related to age-restricted housing, owner-occupied dwellings and source of income, all to align with State Law; prohibiting discrimination in commercial leases; amending provisions related to nonexclusive remedies; and generally related to Human Rights provisions of the County Code.

Introduced and read first time Nov 1, 2021. Ordered posted and hearing scheduled.
By order Michelle Harrod
Michelle Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to the Charter, the Bill was read for a second time at a public hearing on Nov 15, 2021.

By order Michelle Harrod
Michelle Harrod, Administrator

This Bill was read the third time on Dec 6, 2021 and Passed , Passed with amendments , Failed .

By order Michelle Harrod
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 7 day of Dec, 2021 at 4⁰⁰ a.m./p.m.

By order Michelle Harrod
Michelle Harrod, Administrator

Approved/Vetoed by the County Executive Dec 13, 2021

Calvin Ball
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 *Section 1. Be It Enacted by the County Council of Howard County, Maryland that the Howard*
2 *County Code is amended as follows:*

3

4 *By amending:*

5 *Title 12, Subtitle 2. Human Rights*

6 *Section 12.207. Unlawful housing practices*

7 *Section 12.207A. Unlawful housing practices -Subpoenas; evidence;*
8 *conciliation; civil action.*

9 *Section 12.217. Nonexclusive Remedy.*

10

11 **Title 12. Health and Social Services.**

12 **Subtitle 2. Human Rights.**

13

14 **Section 12.207. Unlawful housing practices AND COMMERCIAL LEASING PRACTICES.**

15 I. *Definitions.* Words and phrases used in this section have their usual meanings except as
16 defined below:

17 (a) *Discrimination/discriminatory/DISCRIMINATE* means acting or failing to act, or unduly
18 delaying any action regarding any person(s) because of:

19 Race,

20 Creed,

21 Religion,

22 Disability,

23 Color,

24 Sex,

25 National origin,

26 Age,

27 Occupation,

28 Marital status,

29 Political opinion,

30 Sexual orientation,

31 Personal appearance,

1 Familial status,

2 Citizenship or immigration status.

3 Source of income, or

4 Gender identity or expression in such a way that such person(s) are adversely affected
5 in the area of housing.

6 (b) *Dwelling:*

7 (1) The whole or any part of a building, structure, mobile home or manufactured
8 housing which is occupied as, designed for or intended for occupancy as a
9 residence by one or more families; and/or

10 (2) Land which is offered for sale or lease for the construction or location, in whole or
11 in part, of any such building, structure, mobile home or manufactured housing.

12 (c) *Housing:*

13 (1) A dwelling for the use of one or more individuals, groups or families; and/or

14 (2) A mobile home site or land offered for sale or lease for the construction of such
15 dwelling, building, structure, mobile home site or manufactured housing.

16 (d) *Housing for elderly* means housing for elderly THAT is occupied or unoccupied
17 housing;

18 (1) Provided under any government program that is specifically designed and
19 operated to assist elderly individuals;

20 (2) Intended for and solely occupied by, individuals 62 years of age or older;

21 (3) Intended for and operated for occupancy by at least one individual 55 years of age
22 or older per unit; or

23 (4) That meets the requirements of housing for the elderly set out in regulations
24 adopted by the U.S. Department of Housing and Urban Development under title
25 42, section 3607(b)(2)(C) of the U.S. Code (Federal Fair Housing Act).

26 Housing for elderly includes units occupied as of September 13, 1988, by individuals
27 who do not meet the above age requirements provided that any new occupant of the
28 unit meets the age requirement.

29 (e) *Multifamily dwelling* means a building consisting of four or more dwelling units, if the
30 building has one or more elevators; or a ground floor unit in a building consisting of

1 four or more dwelling units if the building has no elevator. This definition applies only
2 in relation to discrimination based on disability.

3 (f) *In the business of selling or renting a dwelling:*

4 (1) Within the preceding 12 months, participated as principal in three or more
5 transactions involving the sale or rental of any dwelling or of any interest in a
6 dwelling; or

7 (2) Within the preceding 12 months, participated as an agent, other than in the sale of
8 the individual's own personal residence, in providing sales or rental facilities or
9 services in two or more transactions involving the sale or rental of any dwelling or
10 any interest in a dwelling; or

11 (3) Being the owner of any dwelling designed or intended for occupancy by, or
12 occupied by, two or more families.

13 (g) *To rent* includes to lease, to sublease, to let or otherwise grant for a consideration, the
14 right to occupy premises not owned by the occupant,

15 (h) *Residential real estate related transaction:*

16 (1) The making or purchasing of loans or providing other financial assistance secured
17 by residential real estate or for purchasing, constructing, improving, repairing, or
18 maintaining a dwelling; or

19 (2) The selling, brokering, or appraising of residential real property.

20 (i) *Discriminatory restrictive covenants* means any specification limiting the transfer,
21 rental or lease of a dwelling because of discrimination as defined in subsection (a)
22 above.

23 (j) *Source of income* means any lawful source of money that is paid [[to or for the
24 benefit]]DIRECTLY OR INDIRECTLY TO OR ON BEHALF of a renter or buyer of housing,
25 including:

26 (1) A lawful profession, [[or occupation]]OCCUPATION, OR JOB;

27 (2) [[A Federal, State or local government assistance, grant or loan program;

28 (3) A private assistance, grant or loan program, provided that when the lease or
29 purchase agreement is executed, the private program:

30 (i) Delivers the total amount of the assistance, grant or loan; or

31 (ii) Has executed a valid contract agreeing to pay the assistance, grant or loan; or

(iii) Co-signs the lease or purchase agreement;]] ANY GOVERNMENT OR PRIVATE ASSISTANCE, GRANT, LOAN, OR RENTAL ASSISTANCE PROGRAM, INCLUDING LOW-INCOME HOUSING ASSISTANCE CERTIFICATES AND VOUCHERS ISSUED UNDER THE UNITED STATES HOUSING ACT OF 1937;

(((4))3) [[A gift or inheritance, otherwise legally considered a source of income, provided that when the lease or purchase agreement is executed]] A GIFT, AN INHERITANCE, A PENSION, AN ANNUITY, ALIMONY, CHILD SUPPORT, OR ANY OTHER CONSIDERATION OR BENEFIT [[,

(i) The gift or inheritance has already been received; or

(ii) A valid contract has been executed by the giver of the gift or the Administrator of the estate agreeing to give the gift or turn over the inheritance; or

(iii) The giver or the Administrator of the estate co-signs the lease or purchase agreement]];

[[5) A pension or annuity;]]

[[6) Alimony or child support which has been regularly received for the six months prior to the execution of the lease or purchase agreement]];

(((7))4) Bank, trust or investment accounts, stocks, bonds, or other financial holdings;

OR

(((8))5) [[Any contract right or]] THE sale or pledge of any property or interest in property.

[[Source of income does not refer to a determination of the ability to pay rent or pay a purchase price, which is determined by reasonable and customary standards such as verification of income and its source, the creditworthiness of the buyer or renter, and the creditworthiness of any source of income.]]

II. *Unlawful Acts:*

(a) *Sale and rental.* It shall be unlawful if, because of discrimination, any person having the right to sell, rent, lease, control, construct or manage a dwelling (or the person's agent or employee):

- 1 (1) Makes, or causes the making, printing or publishing of any notice, statement or
2 advertisement regarding the sale or rental of a dwelling that indicates any
3 preference or limitation.
- 4 (2) Represents to a person that any dwelling is not available for inspection, sale or
5 rental, when the dwelling is in fact available.
- 6 (3) Refuses to negotiate for the sale or rental of a dwelling.
- 7 (4) Refuses to sell or rent a dwelling after the making of a bona fide offer.
- 8 (5) ~~[[Refuses to make a dwelling available OR DENIES A DWELLING]]~~ MAKES
9 UNAVAILABLE OR DENIES A DWELLING TO A PERSON.
- 10 (6) Restricts the terms, conditions or privileges of sale or rental of a dwelling.
- 11 (7) Restricts the provision of services or facilities in connection with the sale or rental
12 of a dwelling.
- 13 (8) Includes any discriminatory covenants in the transfer, sale, rental or lease of
14 housing.
- 15 (9) Honors, exercises, attempts to honor or attempts to exercise any discriminatory
16 restrictive covenant.
- 17 (10) FOR PROFIT, INDUCES OR ATTEMPTS TO INDUCE ANY PERSON TO SELL OR RENT ANY
18 DWELLING BY REPRESENTATIONS REGARDING THE ENTRY OR PROSPECTIVE ENTRY
19 INTO THE NEIGHBORHOOD BASED ON RACE, CREED, RELIGION, DISABILITY, COLOR,
20 SEX, NATIONAL ORIGIN, AGE, OCCUPATION, MARITAL STATUS, POLITICAL OPINION,
21 SEXUAL ORIENTATION, PERSONAL APPEARANCE, FAMILIAL STATUS OR, SOURCE OF
22 INCOME , OR GENDER IDENTITY OR EXPRESSION.
- 23 (11) REFUSES TO SIGN ANY DOCUMENTATION THAT ALLOWS AN INDIVIDUAL TO RECEIVE
24 FUNDING FROM A THIRD-PARTY SOURCE AS LONG AS THE DOCUMENTATION DOES
25 NOT CHANGE THE TERM OF AN UNDERLYING LEASE.
- 26 (b) *Multiple listing, brokers' organization.* It shall be unlawful if, because of
27 discrimination, any person, or their agents or employees, whether or not acting for
28 monetary gain:
 - 29 (1) Denies any person access, membership or participation in; or
 - 30 (2) Restricts the terms and conditions, of access, membership or participation in

1 any multiple listing service, real estate brokers' organization or other service,
2 organization or facility relating to the business of selling or renting dwellings.

3 (c) *Availability of residential real estate transactions, access to multiple listing services*
4 *and real estate brokers' organizations, etc.:*

5 (1) It shall be unlawful for any person or other entity whose business includes
6 engaging in residential real estate related transactions to discriminate against any
7 person in making available a transaction, or in the terms or conditions of a
8 transaction.

9 (2) Nothing in paragraph (1) above prohibits a person engaged in the business of
10 furnishing appraisals of real property to take into consideration factors other than
11 race, creed, religion, disability, color, sex, national origin, age, occupation, marital
12 status, political opinion, sexual orientation, personal appearance, familial status,
13 ~~or~~ source of income, OR GENDER IDENTITY OR EXPRESSION .

14 *[[d) Property values, changes in nature of neighborhood.* It shall be unlawful if because of
15 discrimination, any person, firm or association, whether or not acting for monetary
16 gain, represents that the existing or potential proximity of real property owned, used or
17 occupied by persons of any particular race, creed, religion, disability, color, sex;
18 national origin, age, occupation, marital status, political opinion, sexual orientation,
19 personal appearance, familial status or source of income will or may result in:

20 (1) The lowering of property values; or

21 (2) A change in the racial, religious or ethnic character of the block, neighborhood or
22 area in which the property is located; or

23 (3) A decline in quality of the schools and institutions serving the area.]]

24 *[[e]]D) Solicitation.* It shall be unlawful if, because of discrimination, any person, firm,
25 corporation or association, whether or not acting for monetary gain:

26 (1) Knowingly induces or attempts to induce another person to transfer an interest in
27 real property by such representations as are described in subsection 12.207II(c) of
28 this subtitle.

29 (2) Places a sign, display or device designed to indicate that a bona fide offer is being
30 made to sell, lease, assign, transfer or otherwise dispose of any dwelling(s) when,

1 in fact, the property is not being offered for the advertise sale, lease, assignment
2 or transfer.

- 3 (3) Maintains a sale, lease, assignment, transfer or other such sign for more than
4 seven days at any dwelling(s) after the execution of any contract or written
5 agreement for the sale, lease, assignment or transfer of the dwelling.

6 ([[f]]E) *Modifications for persons with disabilities.* It shall be unlawful:

- 7 (1) To refuse to permit, at the expense of persons with disabilities, reasonable
8 modifications of existing premises occupied or to be occupied by persons with
9 disabilities if:

- 10 (i) The modifications may be necessary to afford the persons with disabilities
11 full enjoyment of the dwelling; and
12 (ii) For a rental dwelling, the tenant agrees that, upon vacating the dwelling, he
13 or she will restore the interior of the dwelling to the condition that existed
14 before the modification, reasonable wear and tear excepted.

- 15 (2) To refuse to make reasonable accommodations in rules, policies, practices, or
16 services when the accommodations may be necessary to afford persons with
17 disabilities equal opportunity to use and enjoy a dwelling.

18 ([[g]]F) *Multifamily dwelling—Accessibility and usability.*

- 19 (1) It shall be unlawful if multifamily dwellings first occupied on or after July 1,
20 1991, are not designed and constructed in such a way that:

- 21 (i) The public use and common use portions of the dwelling are readily
22 accessible to and usable by persons with disabilities;
23 (ii) All doors are designed to allow passage by individuals in wheelchairs;
24 (iii) There is an accessible route into and through the dwelling;
25 (iv) Light switches, electrical outlets, thermostats and other environmental
26 controls are in accessible locations;
27 (v) The bathroom walls are reinforced to allow later installation of grab bars;
28 and
29 (vi) Bathrooms and kitchens are usable and can be maneuvered in by an
30 individual in a wheelchair.

- 31 (2) Multifamily dwellings are lawful which are in compliance with:

- 1 (i) The appropriate requirements of the American National Standard for
2 Buildings and Facilities Providing Accessibility and Usability for Physically
3 Handicapped Individuals (commonly cited as ANSI A117.1); or
4 (ii) The Federal law, regulations and guidelines on accessibility for persons with
5 disabilities adopted under the Federal Fair Housing Act Amendments of
6 1988 and incorporated by reference in the rules and regulations adopted by
7 the Maryland Department of Housing and Community Development under
8 [[Article 83B]] SECTION 12-202 OF THE PUBLIC SAFETY ARTICLE of the
9 Annotated Code of Maryland.

10 ([[h]]G) *Unlawful coercion.* Whether or not acting under color of law, it shall be unlawful
11 to coerce, intimidate, threaten, interfere with, or retaliate:

- 12 (1) Against any person in the exercise or enjoyment of any right granted or protected
13 by this section.
14 (2) On account of a person having exercised or enjoyed any right granted or protected
15 by this section.
16 (3) On account of a person having aided or encouraged any other person in the
17 exercise or enjoyment of any right granted or protected by this section.
18 (4) Against a person participating lawfully in speech or peaceful assembly opposing
19 any denial of the rights granted or protected by this section.

20 (H) *LEASING OF COMMERCIAL PROPERTY.* AN OWNER OR OPERATOR OF COMMERCIAL
21 PROPERTY, AN AGENT OR EMPLOYEE OF THE OWNER OR OPERATOR OF COMMERCIAL
22 PROPERTY, OR A PERSON THAT IS LICENSED OR REGULATED BY THE STATE SHALL NOT
23 DISCRIMINATE AGAINST AN INDIVIDUAL OR ENTITY IN THE TERMS, CONDITIONS, OR
24 PRIVILEGES OF THE LEASING OF PROPERTY FOR COMMERCIAL USE, OR IN THE PROVISION OF
25 SERVICES OR FACILITIES IN CONNECTION WITH THE LEASING OF PROPERTY FOR
26 COMMERCIAL USE, FOR ANY OF THE REASONS INCLUDED IN SUBSECTION I.(A) OF THIS
27 SECTION EXCEPT SOURCE OF INCOME AND OCCUPATION.

28 III. *Discriminatory Restrictive Covenants:*

- 29 (a) *Null and void.* Any discriminatory restrictive covenant is declared to be null, void and
30 of no effect, and contrary to the public policy of this County.

1 (b) *Refusal to accept document with discriminatory restrictive covenants.* Any person may
2 decline to accept a document affecting title to real or leasehold property if the
3 document includes any discriminatory restrictive covenant. Refusal to accept delivery
4 of an instrument for this reason shall not be deemed a breach of a contract to purchase,
5 lease, mortgage or otherwise deal with the property.

6 IV. *Exemptions:*

7 (a) *Age-related dwellings.* The provisions of section 12.207 shall not apply to HOUSING
8 FOR ELDERLY WHEN THE DISCRIMINATION IS BASED ON FAMILIAL STATUS, AS FAMILIAL
9 STATUS IS DEFINED IN SUBTITLE 7, TITLE 20 OF THE STATE GOVERNMENT ARTICLE OF
10 THE ANNOTATED CODE OF MARYLAND. [[:

- 11 (1) Any medical, health or educational institution established for a specific age group;
12 or
13 (2) Any domiciliary, retirement or senior citizens' home or facility; or
14 (3) Any preschool children's home or facility.]]

15 (b) *Owner occupied dwelling.* Discrimination shall not be unlawful [[with regard to the
16 leasing of a room or apartment in an owner occupied dwelling containing only one
17 rental unit]]ON THE BASIS OF SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR
18 EXPRESSION, MARITAL STATUS, OR SOURCE OF INCOME IF THE SOURCE OF INCOME IS
19 LOW-INCOME HOUSING ASSISTANCE CERTIFICATES OR VOUCHERS ISSUED UNDER THE
20 UNITED STATES HOUSING ACT OF 1937 FOR THE FOLLOWING:

- 21 (1) THE RENTAL OF ROOMS IN ANY DWELLING, IF THE OWNER MAINTAINS THE
22 DWELLING AS THE OWNER'S PRINCIPAL RESIDENCE; OR
23 (2) THE RENTAL OF ANY APARTMENT IN A DWELLING THAT CONTAINS NOT MORE THAN
24 FIVE RENTAL UNITS, IF THE OWNER MAINTAINS THE DWELLING AS THE OWNER'S
25 PRINCIPAL RESIDENCE.

26 (c) *Private membership clubs.* Nothing in this section shall prohibit a private club, not in
27 fact open to the public and which as an incident to its primary purpose or purposes
28 provides lodgings which it owns or operates for other than a commercial purpose, from
29 limiting the rental or occupancy of such lodgings to its members or from giving
30 preference to its members.

1 (d) *Religious organizational dwellings.* A religious organization, association or society, or
2 a nonprofit institution or organization operated, supervised or controlled by or in
3 conjunction with a religious organization may limit the sale, rental or occupancy of
4 dwellings which it owns or operates for other than commercial purpose to persons of
5 the same religion and may give preferences to such persons. Unless membership in the
6 religion is restricted on account of race, color, or national origin.

7 (e) *Sale or rental of single-family dwellings without broker, agent, advertising, etc.* The
8 provisions of section 12.207 shall not apply to the sale or rental of a single-family
9 dwelling if it is sold or rented without:

10 (1) Using the services of a real estate broker, agent, or salesman, or person in the
11 business of selling or renting dwellings or an agent of any of the preceding
12 persons.

13 (2) The publication, posting or mailing, after notice, of any advertisement or written
14 notice in violation of section 12.207.

15 (f) *Threats to health and safety.* Provided that the protections included in the Federal
16 Americans With Disabilities Act are not violated, the provisions of section 12.207 do
17 not require that a dwelling be made available to an individual whose ownership or
18 tenancy would constitute a direct threat to the health or safety of other individuals or
19 would result in substantial physical damage to the property of others.

20 (g) *Maximum occupancy.* Nothing in this section limits the applicability of any reasonable
21 local, State, or Federal restrictions regarding the maximum number of occupants
22 permitted to occupy a dwelling.

23 (h) *Use of attorneys, escrow agents, etc., does not affect otherwise exempted persons.* The
24 use of attorneys, escrow agents, abstractors, title companies, and other similar
25 professional assistance as necessary to perfect or transfer the title shall not affect the
26 exempt status of persons pursuant to this subsection.

27 [(i) *Source of income.* It shall not be unlawful discrimination based on source of income if:

28 (1) The owner of no more than one rental dwelling unit or an assisted rental housing
29 development in Howard County refuses to rent a dwelling to a person because the
30 person is a participant in a government housing assistance program; or

1 (2) A seller elects not to enter into a sales contract that is contingent upon the sale of
2 another property.

3 (3) In this paragraph, the following terms have the meanings indicated:

4 (i) *Assisted rental housing development* means a development consisting of four
5 or more contiguous rental dwelling units in which 20 percent or more of the
6 dwelling units are rented or must be made available for rent to households of
7 low income pursuant to a Federal, State or local government housing
8 assistance program.

9 (ii) *Household of low income* means a person or persons whose annual income
10 does not exceed 50 percent of the median annual income in the Baltimore
11 Metropolitan Statistical Area, as determined from time to time by the United
12 States Department of Housing and Urban Development for Section 8
13 Housing Programs.]]

14 (i) *SOURCE OF INCOME*. IT SHALL NOT BE UNLAWFUL DISCRIMINATION ON THE BASIS OF
15 SOURCE OF INCOME IF A DECISION IS BASED ON:

16 (1) THE ABILITY TO PAY RENT OR PAY A PURCHASE PRICE, WHICH IS DETERMINED BY
17 REASONABLE AND NONDISCRIMINATORY STANDARDS SUCH AS VERIFICATION OF
18 THE SOURCE AND AMOUNT OF INCOME OR THE CREDITWORTHINESS OF THE BUYER
19 OR RENTER; OR

20 (2) THE CONSIDERATION OF INCOME DERIVED FROM ANY CRIMINAL ACTIVITY; OR

21 (3) THE DETERMINATION, IN ACCORDANCE WITH APPLICABLE FEDERAL AND STATE
22 LAWS, OF THE ABILITY OF A POTENTIAL BUYER TO REPAY A MORTGAGE.

23
24 **Section 12.207A. - Unlawful housing practices AND COMMERCIAL LEASING PRACTICES —**
25 **Subpoenas; evidence; conciliation; civil action.**

26 The procedures and requirements provided in section 12.207A and 12.207B shall apply only
27 to matters involving unlawful housing practices AND COMMERCIAL LEASING PRACTICES.
28 Procedures governing complaints, settlements, investigations, findings of reasonable cause,
29 administrative hearings, appeals, oaths, injunctive relief, and enforcement that are not otherwise
30 contained in this section shall be in accordance with section 12.212 of this subtitle.

31 I. *Subpoenas, etc.:*

- 1 (a) *Right to subpoena.* The Administrator and the Human Rights Commission may issue
2 subpoenas and order discovery in aid of investigations and hearings concerning
3 unlawful housing practices OR COMMERCIAL LEASING PRACTICES. Discovery shall be
4 conducted as expeditiously and inexpensively as possible consistent with the need to
5 obtain relevant evidence.
- 6 (b) *Requirement to respond to subpoena to provide evidence.* A person may not willfully
7 fail or neglect to attend and testify, to answer any lawful inquiry, or to produce records,
8 documents, or other evidence, if it is in the person's power to do so, in obedience to the
9 subpoena or other lawful order issued pursuant to paragraph (a) of this subsection.
- 10 (c) *False or incomplete evidence; destruction of evidence.* A person, with intent to mislead
11 another person in a proceeding concerning unlawful housing practices OR COMMERCIAL
12 LEASING PRACTICES, may not:
- 13 (1) Make or cause to be made any false entry or statement of fact in a report, account,
14 record or other document produced pursuant to subpoena or other lawful order
15 issued pursuant to paragraph (a) of this subsection;
- 16 (2) Willfully neglect or fail to make or to cause to be made full, true and correct
17 entries in the reports, accounts, records, or other documents; or
- 18 (3) Willfully mutilate, alter, or by another means falsify any documentary evidence.
- 19 (d) *Penalty for providing false or incomplete, evidence or for destroying evidence.*
20 Pursuant to Section 20-1102 of the State Government Article of the Annotated Code of
21 Maryland, a person who is convicted of violating the provisions of paragraph (b) or (c)
22 of this subsection shall be fined not more than \$100,000.00 or imprisoned not more
23 than one year or both.

24 II. *Conciliation:*

- 25 (a) *Settlement by conciliation.* A complaint alleging unlawful housing practices OR
26 COMMERCIAL LEASING PRACTICES may be settled by conciliation at any time in the
27 process. During the entire period after a complaint is filed, the Administrator and,
28 where appropriate, the Human Rights Commission, shall engage in conciliation.
- 29 (b) *Conciliation agreement made public.* A conciliation agreement shall be made public
30 unless the State Public Information Act or other state or federal law permits it to be
31 withheld from disclosure.

1 (c) *Confidentiality.* Except in a proceeding to enforce a conciliation agreement, nothing
2 said or done in the course of conciliation may be made public or used as evidence in a
3 subsequent proceeding under this subtitle without the written consent of the persons
4 concerned.

5 (d) *Breach of conciliation agreement.* If the Administrator or the Commission has
6 reasonable cause to believe that a respondent has breached a conciliation agreement,
7 the Administrator may institute litigation to enforce the conciliation agreement in the
8 same manner as provided in this section for the enforcement of an order of the
9 Commission.

10 III. *Civil Action.* After a complaint of alleged unlawful housing practices OR COMMERCIAL
11 LEASING PRACTICES is filed, if the Administrator or the Human Rights Commission
12 concludes that prompt judicial action is necessary to carry out the purposes of this subtitle
13 regarding unlawful housing practices OR COMMERCIAL LEASING PRACTICES, the
14 Administrator or the Human Rights Commission (if the Commission initiated the
15 complaint) may authorize a civil action in the Circuit Court for Howard County for
16 appropriate temporary or preliminary relief pending final disposition of the complaint
17 pursuant to this subtitle. The commencement of a civil action does not affect the initiation
18 or continuation of administrative proceedings pursuant to this subtitle.

19
20 **Section 12.217. Nonexclusive remedy.**

21 I. *Rights.* The provisions of this subtitle vest in all persons in Howard County the right to be free
22 of any practices prohibited by this subtitle.

23 II. *Action at Law.* Any person who is aggrieved by an act prohibited by this subtitle may bring an
24 action in law or in equity in the Circuit Court for Howard County to seek damages, including
25 counsel fees, redress of injury or injunctive relief arising out of any such prohibited act.

26 III. *Termination of Administrative Process.* If the aggrieved person brings an action before the
27 Circuit Court of Howard County OR ANY OTHER COURT OF COMPETENT JURISDICTION, in a matter
28 which is pending before THE Office or the Commission, the Office or Commission shall close the
29 case and cease all proceedings on the matter.

30
31 **Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that**

1 *this Act shall become effective 61 days after its enactment.*

Amendment 1 to Council Bill No. 85 - 2021

BY: Liz Walsh

Legislative Day 19

Date: December 6, 2021

Amendment No. 1

(Creates "Citizenship or Immigration Status" as a protected class from discrimination.)

- 1 On page 2, immediately following line 1, insert "Citizenship or immigration status."
- 2
- 3
- 4
- 5

I certify this is a true copy of
Am. 1 to CB 85-2021
passed on 12-6-2021
Michelle Garry
Council Administrator

Amendment 2 to Council Bill No. 85-2021

BY: The Chairperson at the request
of the County Executive

Legislative Day 19
Date: December 6, 2021

Amendment No. 2

(This amendment makes a technical correction to add "gender identity or expression" as included in the list of prohibited discriminatory practices into new language proposed to be added by this Act and into currently existing language where it should have been added when that category was added to the Code.

This also makes a technical correction to remove language within brackets that is being shown as new law and to add a "the".)

"This amendment also makes certain changes to prohibited discrimination in commercial leasing."

- 1 On page 5, in line 5, strike "OR DENIES A DWELLING".
- 2
- 3 On page 5, in line 18, strike "OR" and substitute a comma.
- 4 On page 5, in line 19, after "INCOME" insert "OR GENDER IDENTITY OR EXPRESSION".
- 5
- 6 On page 6, in line 8, strike "or" and substitute a comma.
- 7 On page 6, in line 9, after "income" insert "OR GENDER IDENTITY OR EXPRESSION".
- 8
- 9 On page 9, in line 11, after "IDENTITY" insert "OR EXPRESSION".
- 10 On page 8, in line 18, after "INDIVIDUAL", insert "OR ENTITY".
- 11
- 12 On page 8, in line 21, after "SECTION" insert "EXCEPT SOURCE OF INCOME AND OCCUPATION".
- 13 On page 13, in line 24, after "before" insert "THE".

I certify this is a true copy of

Am 2 to CB 85-2021
passed on 12-6-2021

Michael Herzog
Council Administrator

Amendment 1 to Amendment 2 to Council Bill No. 85-2021

BY: The Chairperson at the request
of the County Executive

Legislative Day 19
Date: December 6, 2021

Amendment No. 1 to Amendment No. 2

(Related to discrimination in commercial leases, this amendment:

1. Adds that prohibited discrimination shall also apply to discrimination against entities; and
2. Removes source of income and occupation as a basis upon which discrimination may not occur.)

1 In the description, add at the end:

2 "This amendment also makes certain changes to prohibited discrimination in commercial
3 leasing."

4

5 On page 1, after line 9, insert:

6 "On page 8, in line 18, after "INDIVIDUAL", insert "OR ENTITY".

7

8 On page 8, in line 21, after "SECTION" insert "EXCEPT SOURCE OF INCOME AND

9 OCCUPATION"."

I certify this is a true copy of
Am 1 to Am 2 to CB 85-2021
passed on Dec 6, 2021
Michelle Hargan
Council Administrator

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on Dec 13, 2021.

Michelle Harrod
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2021.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2021.

Michelle Harrod, Administrator to the County Council

Introduced 11-1-2021
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No. 17

Bill No. 85 -2021

Introduced by: The Chairperson at the request of the County Executive

AN ACT to update County housing discrimination law to comply with Subtitle 7 of Title 20 of the State Government Article of the Annotated Code of Maryland by amending the definition of source of income, amending provisions related to unlawful discrimination in the sale and rental of housing, amending provisions related to unlawful discrimination based on source of income, amending certain exemptions related to age-restricted housing, owner-occupied dwellings and source of income, all to align with State Law; prohibiting discrimination in commercial leases; amending provisions related to nonexclusive remedies; and generally related to Human Rights provisions of the County Code.

Introduced and read first time Nov 1, 2021. Ordered posted and hearing scheduled.
By order Michelle Harrod
Michelle Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to the Charter, the Bill was read for a second time at a public hearing on _____, 2021.

By order _____
Michelle Harrod, Administrator

This Bill was read the third time on _____, 2021 and Passed _____, Passed with amendments _____, Failed _____.

By order _____
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2021 at ____ a.m./p.m.

By order _____
Michelle Harrod, Administrator

Approved/Vetoed by the County Executive _____, 2021

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland that the Howard
2 County Code is amended as follows:

3
4 By amending:

5 Title 12, Subtitle 2. Human Rights

6 Section 12.207. Unlawful housing practices

7 Section 12.207A. Unlawful housing practices -Subpoenas; evidence;
8 conciliation; civil action.

9 Section 12.217. Nonexclusive Remedy.

10
11 **Title 12. Health and Social Services.**

12 **Subtitle 2. Human Rights.**

13
14 **Section 12.207. Unlawful housing practices AND COMMERCIAL LEASING PRACTICES.**

15 I. *Definitions.* Words and phrases used in this section have their usual meanings except as
16 defined below:

17 (a) *Discrimination/discriminatory/DISCRIMINATE* means acting or failing to act, or unduly
18 delaying any action regarding any person(s) because of:

19 Race,

20 Creed,

21 Religion,

22 Disability,

23 Color,

24 Sex,

25 National origin,

26 Age,

27 Occupation,

28 Marital status,

29 Political opinion,

30 Sexual orientation,

31 Personal appearance,

1 Familial status,
2 Source of income, or
3 Gender identity or expression in such a way that such person(s) are adversely affected
4 in the area of housing.

5 (b) *Dwelling:*

- 6 (1) The whole or any part of a building, structure, mobile home or manufactured
7 housing which is occupied as, designed for or intended for occupancy as a
8 residence by one or more families; and/or
9 (2) Land which is offered for sale or lease for the construction or location, in whole or
10 in part, of any such building, structure, mobile home or manufactured housing.

11 (c) *Housing:*

- 12 (1) A dwelling for the use of one or more individuals, groups or families; and/or
13 (2) A mobile home site or land offered for sale or lease for the construction of such
14 dwelling, building, structure, mobile home site or manufactured housing.

15 (d) *Housing for elderly* means housing for elderly THAT is occupied or unoccupied
16 housing:

- 17 (1) Provided under any government program that is specifically designed and
18 operated to assist elderly individuals;
19 (2) Intended for and solely occupied by, individuals 62 years of age or older;
20 (3) Intended for and operated for occupancy by at least one individual 55 years of age
21 or older per unit; or
22 (4) That meets the requirements of housing for the elderly set out in regulations
23 adopted by the U.S. Department of Housing and Urban Development under title
24 42, section 3607(b)(2)(C) of the U.S. Code (Federal Fair Housing Act).

25 Housing for elderly includes units occupied as of September 13, 1988, by individuals
26 who do not meet the above age requirements provided that any new occupant of the
27 unit meets the age requirement.

28 (e) *Multifamily dwelling* means a building consisting of four or more dwelling units, if the
29 building has one or more elevators; or a ground floor unit in a building consisting of
30 four or more dwelling units if the building has no elevator. This definition applies only
31 in relation to discrimination based on disability.

1 (f) *In the business of selling or renting a dwelling:*

2 (1) Within the preceding 12 months, participated as principal in three or more
3 transactions involving the sale or rental of any dwelling or of any interest in a
4 dwelling; or

5 (2) Within the preceding 12 months, participated as an agent, other than in the sale of
6 the individual's own personal residence, in providing sales or rental facilities or
7 services in two or more transactions involving the sale or rental of any dwelling or
8 any interest in a dwelling; or

9 (3) Being the owner of any dwelling designed or intended for occupancy by, or
10 occupied by, two or more families.

11 (g) *To rent* includes to lease, to sublease, to let or otherwise grant for a consideration, the
12 right to occupy premises not owned by the occupant,

13 (h) *Residential real estate related transactions:*

14 (1) The making or purchasing of loans or providing other financial assistance secured
15 by residential real estate or for purchasing, constructing, improving, repairing, or
16 maintaining a dwelling; or

17 (2) The selling, brokering, or appraising of residential real property.

18 (i) *Discriminatory restrictive covenants* means any specification limiting the transfer,
19 rental or lease of a dwelling because of discrimination as defined in subsection (a)
20 above.

21 (j) *Source of income* means any lawful source of money that is paid [[to or for the
22 benefit]]DIRECTLY OR INDIRECTLY TO OR ON BEHALF of a renter or buyer of housing,
23 including:

24 (1) A lawful profession, [or occupation]]OCCUPATION, OR JOB;

25 (2) [[A Federal, State or local government assistance, grant or loan program;

26 (3) A private assistance grant or loan program, provided that when the lease or
27 purchase agreement is executed, the private program:

28 (i) Delivers the total amount of the assistance, grant or loan; or

29 (ii) Has executed a valid contract agreeing to pay the assistance, grant or loan; or

30 (iii) Co-signs the lease or purchase agreement;]] ANY GOVERNMENT OR PRIVATE

31 ASSISTANCE, GRANT, LOAN, OR RENTAL ASSISTANCE PROGRAM, INCLUDING

LOW-INCOME HOUSING ASSISTANCE CERTIFICATES AND VOUCHERS ISSUED
UNDER THE UNITED STATES HOUSING ACT OF 1937;

1
2
3 (([4])3) [[A gift or inheritance, otherwise legally considered a source of income,
4 provided that when the lease or purchase agreement is executed]] A GIFT, AN
5 INHERITANCE, A PENSION, AN ANNUITY, ALIMONY, CHILD SUPPORT, OR ANY OTHER
6 CONSIDERATION OR BENEFIT [[,

7 (i) The gift or inheritance has already been received; or

8 (ii) A valid contract has been executed by the giver of the gift or the
9 Administrator of the estate agreeing to give the gift or turn over the
10 inheritance; or

11 (iii) The giver or the Administrator of the estate co-signs the lease or purchase
12 agreement]];

13 [[(5) A pension or annuity;]]

14 [[(6) Alimony or child support which has been regularly received for the six months
15 prior to the execution of the lease or purchase agreement]];

16 (([7])4) Bank, trust or investment accounts, stocks, bonds, or other financial holdings;
17 OR

18 (([8])5) [[Any contract right or]] THE sale or pledge of any property or interest in
19 property.

20 [[Source of income does not refer to a determination of the ability to pay rent or pay a
21 purchase price, which is determined by reasonable and customary standards such as
22 verification of income and its source, the creditworthiness of the buyer or renter, and
23 the creditworthiness of any source of income.]]

24 II. *Unlawful Acts:*

25 (a) *Sale and rental.* It shall be unlawful if, because of discrimination, any person having
26 the right to sell, rent, lease, control, construct or manage a dwelling (or the person's
27 agent or employee):

28 (1) Makes, or causes the making, printing or publishing of any notice, statement or
29 advertisement regarding the sale or rental of a dwelling that indicates any
30 preference or limitation.

- 1 (2) Represents to a person that any dwelling is not available for inspection, sale or
2 rental, when the dwelling is in fact available.
- 3 (3) Refuses to negotiate for the sale or rental of a dwelling.
- 4 (4) Refuses to sell or rent a dwelling after the making of a bona fide offer.
- 5 (5) ~~[[Refuses to make a dwelling available OR DENIES A DWELLING]] MAKES~~
6 ~~UNAVAILABLE OR DENIES A DWELLING TO A PERSON.~~
- 7 (6) Restricts the terms, conditions or privileges of sale or rental of a dwelling.
- 8 (7) Restricts the provision of services or facilities in connection with the sale or rental
9 of a dwelling.
- 10 (8) Includes any discriminatory covenants in the transfer, sale, rental or lease of
11 housing.
- 12 (9) Honors, exercises, attempts to honor or attempts to exercise any discriminatory
13 restrictive covenant.
- 14 (10) FOR PROFIT, INDUCES OR ATTEMPTS TO INDUCE ANY PERSON TO SELL OR RENT ANY
15 DWELLING BY REPRESENTATIONS REGARDING THE ENTRY OR PROSPECTIVE ENTRY
16 INTO THE NEIGHBORHOOD BASED ON RACE, CREED, RELIGION, DISABILITY, COLOR,
17 SEX, NATIONAL ORIGIN, AGE, OCCUPATION, MARITAL STATUS, POLITICAL OPINION,
18 SEXUAL ORIENTATION, PERSONAL APPEARANCE, FAMILIAL STATUS OR SOURCE OF
19 INCOME.
- 20 (11) REFUSES TO SIGN ANY DOCUMENTATION THAT ALLOWS AN INDIVIDUAL TO RECEIVE
21 FUNDING FROM A THIRD-PARTY SOURCE AS LONG AS THE DOCUMENTATION DOES
22 NOT CHANGE THE TERM OF AN UNDERLYING LEASE.

23 (b) *Multiple listing, brokers' organization.* It shall be unlawful if, because of
24 discrimination, any person, or their agents or employees, whether or not acting for
25 monetary gain:

- 26 (1) Denies any person access, membership or participation in; or
- 27 (2) Restricts the terms and conditions, of access, membership or participation in
28 any multiple listing service, real estate brokers' organization or other service,
29 organization or facility relating to the business of selling or renting dwellings.

30 (c) *Availability of residential real estate transactions, access to multiple listing services*
31 *and real estate brokers' organizations, etc.:*

1 (1) It shall be unlawful for any person or other entity whose business includes
2 engaging in residential real estate related transactions to discriminate against any
3 person in making available a transaction, or in the terms or conditions of a
4 transaction.

5 (2) Nothing in paragraph (1) above prohibits a person engaged in the business of
6 furnishing appraisals of real property to take into consideration factors other than
7 race, creed, religion, disability, color, sex, national origin, age, occupation, marital
8 status, political opinion, sexual orientation, personal appearance, familial status or
9 source of income.

10 ~~[[d) *Property values, changes in nature of neighborhood.* It shall be unlawful if because of
11 discrimination, any person, firm or association, whether or not acting for monetary
12 gain, represents that the existing or potential proximity of real property owned, used or
13 occupied by persons of any particular race, creed, religion, disability, color, sex;
14 national origin, age, occupation, marital status, political opinion, sexual orientation,
15 personal appearance, familial status or source of income will or may result in:~~

- 16 (1) The lowering of property values; or
17 (2) A change in the racial, religious or ethnic character of the block, neighborhood or
18 area in which the property is located; or
19 (3) A decline in quality of the schools and institutions serving the area.]]

20 ~~[[e]]D) *Solicitation.* It shall be unlawful if, because of discrimination, any person, firm,
21 corporation or association, whether or not acting for monetary gain:~~

- 22 (1) Knowingly induces or attempts to induce another person to transfer an interest in
23 real property by such representations as are described in subsection 12.207II(c) of
24 this subtitle.
25 (2) Places a sign, display or device designed to indicate that a bona fide offer is being
26 made to sell, lease, assign, transfer or otherwise dispose of any dwelling(s) when,
27 in fact, the property is not being offered for the advertise sale, lease, assignment
28 or transfer.
29 (3) Maintains a sale, lease, assignment, transfer or other such sign for more than
30 seven days at any dwelling(s) after the execution of any contract or written
31 agreement for the sale, lease, assignment or transfer of the dwelling.

1 ([[f]]E) *Modifications for persons with disabilities.* It shall be unlawful:

2 (1) To refuse to permit, at the expense of persons with disabilities, reasonable
3 modifications of existing premises occupied or to be occupied by persons with
4 disabilities if:

5 (i) The modifications may be necessary to afford the persons with disabilities
6 full enjoyment of the dwelling; and

7 (ii) For a rental dwelling, the tenant agrees that, upon vacating the dwelling, he
8 or she will restore the interior of the dwelling to the condition that existed
9 before the modification, reasonable wear and tear excepted.

10 (2) To refuse to make reasonable accommodations in rules, policies, practices, or
11 services when the accommodations may be necessary to afford persons with
12 disabilities equal opportunity to use and enjoy a dwelling.

13 ([[g]]F) *Multifamily dwelling—Accessibility and usability.*

14 (1) It shall be unlawful if multifamily dwellings first occupied on or after July 1,
15 1991, are not designed and constructed in such a way that:

16 (i) The public use and common use portions of the dwelling are readily
17 accessible to and usable by persons with disabilities;

18 (ii) All doors are designed to allow passage by individuals in wheelchairs;

19 (iii) There is an accessible route into and through the dwelling;

20 (iv) Light switches, electrical outlets, thermostats and other environmental
21 controls are in accessible locations;

22 (v) The bathroom walls are reinforced to allow later installation of grab bars;
23 and

24 (vi) Bathrooms and kitchens are usable and can be maneuvered in by an
25 individual in a wheelchair.

26 (2) Multifamily dwellings are lawful which are in compliance with:

27 (i) The appropriate requirements of the American National Standard for
28 Buildings and Facilities Providing Accessibility and Usability for Physically
29 Handicapped Individuals (commonly cited as ANSI A117.1); or

30 (ii) The Federal law, regulations and guidelines on accessibility for persons with
31 disabilities adopted under the Federal Fair Housing Act Amendments of

1 1988 and incorporated by reference in the rules and regulations adopted by
2 the Maryland Department of Housing and Community Development under
3 [[Article 83B]] SECTION 12-202 OF THE PUBLIC SAFETY ARTICLE of the
4 Annotated Code of Maryland.

5 (([h])G) *Unlawful coercion.* Whether or not acting under color of law, it shall be unlawful
6 to coerce, intimidate, threaten, interfere with, or retaliate:

- 7 (1) Against any person in the exercise or enjoyment of any right granted or protected
8 by this section.
9 (2) On account of a person having exercised or enjoyed any right granted or protected
10 by this section.
11 (3) On account of a person having aided or encouraged any other person in the
12 exercise or enjoyment of any right granted or protected by this section.
13 (4) Against a person participating lawfully in speech or peaceful assembly opposing
14 any denial of the rights granted or protected by this section.

15 (H) *LEASING OF COMMERCIAL PROPERTY.* AN OWNER OR OPERATOR OF COMMERCIAL
16 PROPERTY, AN AGENT OR EMPLOYEE OF THE OWNER OR OPERATOR OF COMMERCIAL
17 PROPERTY, OR A PERSON THAT IS LICENSED OR REGULATED BY THE STATE SHALL NOT
18 DISCRIMINATE AGAINST AN INDIVIDUAL IN THE TERMS, CONDITIONS, OR PRIVILEGES OF THE
19 LEASING OF PROPERTY FOR COMMERCIAL USE, OR IN THE PROVISION OF SERVICES OR
20 FACILITIES IN CONNECTION WITH THE LEASING OF PROPERTY FOR COMMERCIAL USE, FOR
21 ANY OF THE REASONS INCLUDED IN SUBSECTION I.(A) OF THIS SECTION.

22 III. *Discriminatory Restrictive Covenants:*

- 23 (a) *Null and void.* Any discriminatory restrictive covenant is declared to be null, void and
24 of no effect and contrary to the public policy of this County.
25 (b) *Refusal to accept document with discriminatory restrictive covenants.* Any person may
26 decline to accept a document affecting title to real or leasehold property if the
27 document includes any discriminatory restrictive covenant. Refusal to accept delivery
28 of an instrument for this reason shall not be deemed a breach of a contract to purchase,
29 lease, mortgage or otherwise deal with the property.

30 IV. *Exemptions:*

1 (a) *Age-related dwellings.* The provisions of section 12.207 shall not apply to HOUSING
2 FOR ELDERLY WHEN THE DISCRIMINATION IS BASED ON FAMILIAL STATUS, AS FAMILIAL
3 STATUS IS DEFINED IN SUBTITLE 7, TITLE 20 OF THE STATE GOVERNMENT ARTICLE OF
4 THE ANNOTATED CODE OF MARYLAND. [[:

- 5 (1) Any medical, health or educational institution established for a specific age group;
6 or
7 (2) Any domiciliary, retirement or senior citizens' home or facility; or
8 (3) Any preschool children's home or facility.]]

9 (b) *Owner occupied dwelling.* Discrimination shall not be unlawful [[with regard to the
10 leasing of a room or apartment in an owner occupied dwelling containing only one
11 rental unit]]ON THE BASIS OF SEX, SEXUAL ORIENTATION, GENDER IDENTITY, MARITAL
12 STATUS, OR SOURCE OF INCOME IF THE SOURCE OF INCOME IS LOW-INCOME HOUSING
13 ASSISTANCE CERTIFICATES OR VOUCHERS ISSUED UNDER THE UNITED STATES HOUSING
14 ACT OF 1937 FOR THE FOLLOWING:

- 15 (1) THE RENTAL OF ROOMS IN ANY DWELLING, IF THE OWNER MAINTAINS THE
16 DWELLING AS THE OWNER'S PRINCIPAL RESIDENCE; OR
17 (2) THE RENTAL OF ANY APARTMENT IN A DWELLING THAT CONTAINS NOT MORE THAN
18 FIVE RENTAL UNITS, IF THE OWNER MAINTAINS THE DWELLING AS THE OWNER'S
19 PRINCIPAL RESIDENCE.

20 (c) *Private membership clubs.* Nothing in this section shall prohibit a private club, not in
21 fact open to the public and which as an incident to its primary purpose or purposes
22 provides lodgings which it owns or operates for other than a commercial purpose, from
23 limiting the rental or occupancy of such lodgings to its members or from giving
24 preference to its members.

25 (d) *Religious organizational dwellings.* A religious organization, association or society, or
26 a nonprofit institution or organization operated, supervised or controlled by or in
27 conjunction with a religious organization may limit the sale, rental or occupancy of
28 dwellings which it owns or operates for other than commercial purpose to persons of
29 the same religion and may give preferences to such persons. Unless membership in the
30 religion is restricted on account of race, color, or national origin.

- 1 (e) *Sale or rental of single-family dwellings without broker, agent, advertising, etc.* The
2 provisions of section 12.207 shall not apply to the sale or rental of a single-family
3 dwelling if it is sold or rented without:
- 4 (1) Using the services of a real estate broker, agent, or salesman, or person in the
5 business of selling or renting dwellings or an agent of any of the preceding
6 persons.
- 7 (2) The publication, posting or mailing, after notice, of any advertisement or written
8 notice in violation of section 12.207.
- 9 (f) *Threats to health and safety.* Provided that the protections included in the Federal
10 Americans With Disabilities Act are not violated, the provisions of section 12.207 do
11 not require that a dwelling be made available to an individual whose ownership or
12 tenancy would constitute a direct threat to the health or safety of other individuals or
13 would result in substantial physical damage to the property of others.
- 14 (g) *Maximum occupancy.* Nothing in this section limits the applicability of any reasonable
15 local, State, or Federal restrictions regarding the maximum number of occupants
16 permitted to occupy a dwelling.
- 17 (h) *Use of attorneys, escrow agents, etc., does not affect otherwise exempted persons.* The
18 use of attorneys, escrow agents, abstractors, title companies, and other similar
19 professional assistance as necessary to perfect or transfer the title shall not affect the
20 exempt status of persons pursuant to this subsection.
- 21 [(i) *Source of income.* It shall not be unlawful discrimination based on source of income if:
- 22 (1) The owner of no more than one rental dwelling unit or an assisted rental housing
23 development in Howard County refuses to rent a dwelling to a person because the
24 person is a participant in a government housing assistance program; or
- 25 (2) A seller elects not to enter into a sales contract that is contingent upon the sale of
26 another property.
- 27 (3) In this paragraph, the following terms have the meanings indicated:
- 28 (i) *Assisted rental housing development* means a development consisting of four
29 or more contiguous rental dwelling units in which 20 percent or more of the
30 dwelling units are rented or must be made available for rent to households of

1 low income pursuant to a Federal, State or local government housing
2 assistance program.

3 (ii) *Household of low income* means a person or persons whose annual income
4 does not exceed 50 percent of the median annual income in the Baltimore
5 Metropolitan Statistical Area, as determined from time to time by the United
6 States Department of Housing and Urban Development for Section 8
7 Housing Programs.]]

8 (i) *SOURCE OF INCOME*. IT SHALL NOT BE UNLAWFUL DISCRIMINATION ON THE BASIS OF
9 SOURCE OF INCOME IF A DECISION IS BASED ON:

- 10 (1) THE ABILITY TO PAY RENT OR PAY A PURCHASE PRICE, WHICH IS DETERMINED BY
11 REASONABLE AND NONDISCRIMINATORY STANDARDS SUCH AS VERIFICATION OF
12 THE SOURCE AND AMOUNT OF INCOME OR THE CREDITWORTHINESS OF THE BUYER
13 OR RENTER; OR
14 (2) THE CONSIDERATION OF INCOME DERIVED FROM ANY CRIMINAL ACTIVITY; OR
15 (3) THE DETERMINATION, IN ACCORDANCE WITH APPLICABLE FEDERAL AND STATE
16 LAWS, OF THE ABILITY OF A POTENTIAL BUYER TO REPAY A MORTGAGE.

17
18 **Section 12.207A. - Unlawful housing practices AND COMMERCIAL LEASING PRACTICES —**
19 **Subpoenas; evidence; conciliation; civil action.**

20 The procedures and requirements provided in section 12.207A and 12.207B shall apply only
21 to matters involving unlawful housing practices AND COMMERCIAL LEASING PRACTICES.
22 Procedures governing complaints, settlements, investigations, findings of reasonable cause,
23 administrative hearings, appeals, oaths, injunctive relief, and enforcement that are not otherwise
24 contained in this section shall be in accordance with section 12.212 of this subtitle.

25 I. *Subpoenas, etc.:*

- 26 (a) *Right to subpoena.* The Administrator and the Human Rights Commission may issue
27 subpoenas and order discovery in aid of investigations and hearings concerning
28 unlawful housing practices OR COMMERCIAL LEASING PRACTICES. Discovery shall be
29 conducted as expeditiously and inexpensively as possible consistent with the need to
30 obtain relevant evidence.

1 (b) *Requirement to respond to subpoena to provide evidence.* A person may not willfully
2 fail or neglect to attend and testify, to answer any lawful inquiry, or to produce records,
3 documents, or other evidence, if it is in the person's power to do so, in obedience to the
4 subpoena or other lawful order issued pursuant to paragraph (a) of this subsection.

5 (c) *False or incomplete evidence; destruction of evidence.* A person, with intent to mislead
6 another person in a proceeding concerning unlawful housing practices OR COMMERCIAL
7 LEASING PRACTICES, may not:

8 (1) Make or cause to be made any false entry or statement of fact in a report, account,
9 record or other document produced pursuant to subpoena or other lawful order
10 issued pursuant to paragraph (a) of this subsection;

11 (2) Willfully neglect or fail to make or to cause to be made full, true and correct
12 entries in the reports, accounts, records, or other documents; or

13 (3) Willfully mutilate, alter, or by another means falsify any documentary evidence.

14 (d) *Penalty for providing false or incomplete evidence or for destroying evidence.*

15 Pursuant to Section 20-1102 of the State Government Article of the Annotated Code of
16 Maryland, a person who is convicted of violating the provisions of paragraph (b) or (c)
17 of this subsection shall be fined not more than \$100,000.00 or imprisoned not more
18 than one year or both.

19 II. *Conciliation:*

20 (a) *Settlement by conciliation.* A complaint alleging unlawful housing practices OR
21 COMMERCIAL LEASING PRACTICES may be settled by conciliation at any time in the
22 process. During the entire period after a complaint is filed, the Administrator and,
23 where appropriate, the Human Rights Commission, shall engage in conciliation.

24 (b) *Conciliation agreement made public.* A conciliation agreement shall be made public
25 unless the State Public Information Act or other state or federal law permits it to be
26 withheld from disclosure.

27 (c) *Confidentiality.* Except in a proceeding to enforce a conciliation agreement, nothing
28 said or done in the course of conciliation may be made public or used as evidence in a
29 subsequent proceeding under this subtitle without the written consent of the persons
30 concerned.

1 (d) *Breach of conciliation agreement.* If the Administrator or the Commission has
2 reasonable cause to believe that a respondent has breached a conciliation agreement,
3 the Administrator may institute litigation to enforce the conciliation agreement in the
4 same manner as provided in this section for the enforcement of an order of the
5 Commission.

6 III. *Civil Action.* After a complaint of alleged unlawful housing practices OR COMMERCIAL
7 LEASING PRACTICES is filed, if the Administrator or the Human Rights Commission
8 concludes that prompt judicial action is necessary to carry out the purposes of this subtitle
9 regarding unlawful housing practices OR COMMERCIAL LEASING PRACTICES, the
10 Administrator or the Human Rights Commission (if the Commission initiated the
11 complaint) may authorize a civil action in the Circuit Court for Howard County for
12 appropriate temporary or preliminary relief pending final disposition of the complaint
13 pursuant to this subtitle. The commencement of a civil action does not affect the initiation
14 or continuation of administrative proceedings pursuant to this subtitle.

15
16 **Section 12.217. Nonexclusive remedy.**

17 I. *Rights.* The provisions of this subtitle vest in all persons in Howard County the right to be free
18 of any practices prohibited by this subtitle.

19 II. *Action at Law.* Any person who is aggrieved by an act prohibited by this subtitle may bring an
20 action in law or in equity in the Circuit Court for Howard County to seek damages, including
21 counsel fees, redress of injury or injunctive relief arising out of any such prohibited act.

22 III. *Termination of Administrative Process.* If the aggrieved person brings an action before the
23 Circuit Court of Howard County OR ANY OTHER COURT OF COMPETENT JURISDICTION, in a matter
24 which is pending before Office or the Commission, the Office or Commission shall close the
25 case and cease all proceedings on the matter.

26
27 **Section 2. And Be It Further Enacted** by the County Council of Howard County, Maryland that
28 *this Act shall become effective 61 days after its enactment.*

Amendment 2 to Council Bill No. 85-2021

BY: The Chairperson at the request
of the County Executive

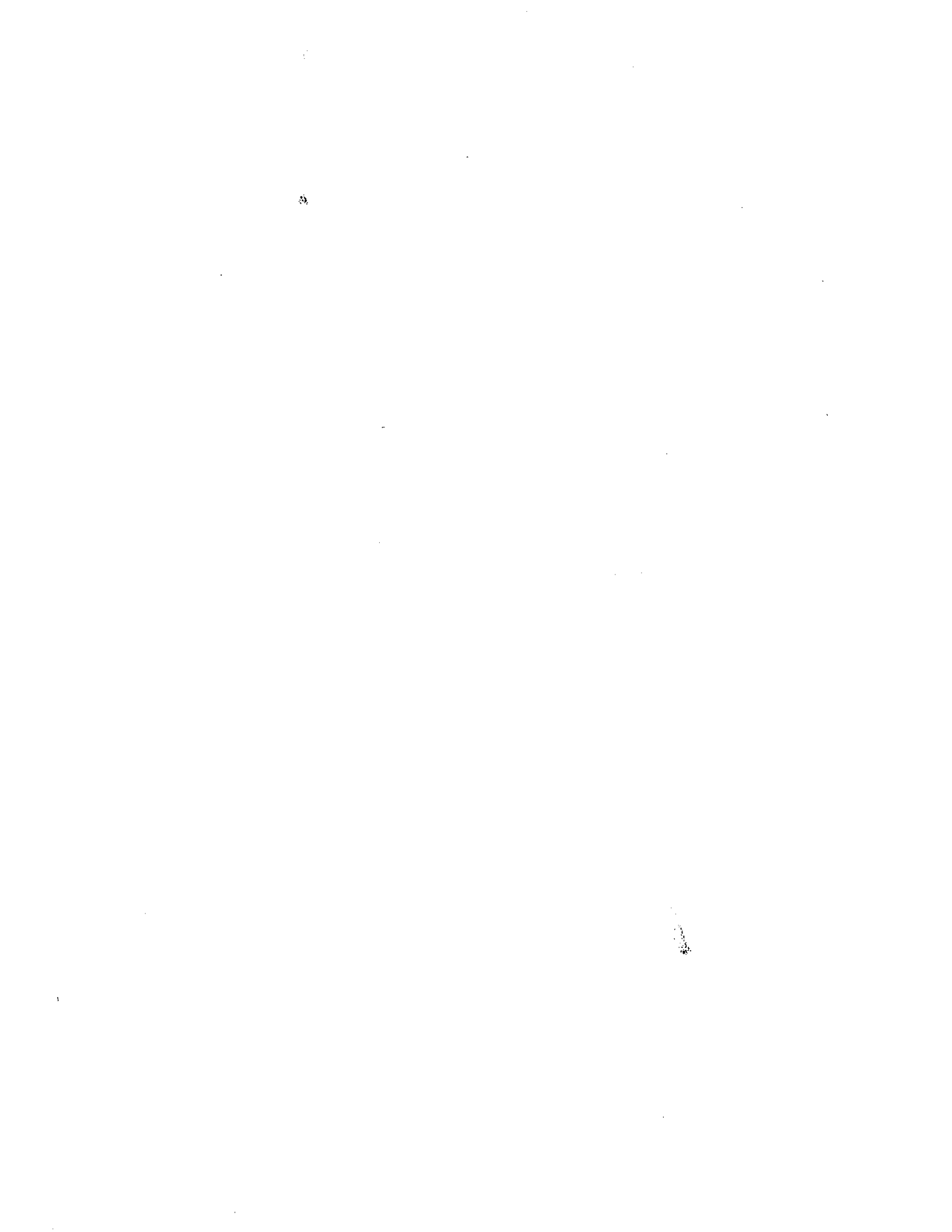
Legislative Day 19
Date: December 6, 2021

Amendment No. 2

(This amendment makes a technical correction to add "gender identity or expression" as included in the list of prohibited discriminatory practices into new language proposed to be added by this Act and into currently existing language where it should have been added when that category was added to the Code.

This also makes a technical correction to remove language within brackets that is being shown as new law and to add a "the".)

- 1 On page 5, in line 5, strike "OR DENIES A DWELLING".
- 2
- 3 On page 5, in line 18, strike "OR" and substitute a comma.
- 4 On page 5, in line 19, after "INCOME" insert ", OR GENDER IDENTITY OR EXPRESSION".
- 5
- 6 On page 6, in line 8, strike "or" and substitute a comma.
- 7 On page 6, in line 9, after "income" insert ", OR GENDER IDENTITY OR EXPRESSION".
- 8
- 9 On page 9, in line 11, after "IDENTITY" insert "OR EXPRESSION".
- 10
- 11 On page 13, in line 24, after "before" insert "THE".



Amendment 1 to Council Bill No. 85 - 2021

BY: Liz Walsh

Legislative Day 19

Date: December 6, 2021

Amendment No. 1

(Creates "Citizenship or Immigration Status" as a protected class from discrimination.)

- 1 On page 2, immediately following line 1, insert "Citizenship or immigration status."
- 2
- 3
- 4
- 5

Amendment 1 to Amendment 2 to Council Bill No. 85-2021

**BY: The Chairperson at the request
of the County Executive**

**Legislative Day 19
Date: December 6, 2021**

Amendment No. 1 to Amendment No. 2

(Related to discrimination in commercial leases, this amendment:

- 1. Adds that prohibited discrimination shall also apply to discrimination against entities; and*
- 2. Removes source of income and occupation as a basis upon which discrimination may not occur.)*

1 In the description, add at the end:

2 “This amendment also makes certain changes to prohibited discrimination in commercial
3 leasing.”

4

5 On page 1, after line 9, insert:

6 “On page 8, in line 18, after “INDIVIDUAL”, insert “OR ENTITY”.

7

8 On page 8, in line 21, after “SECTION” insert “EXCEPT SOURCE OF INCOME AND
9 OCCUPATION”.”.

Amendment 2 to Council Bill No. 85-2021

BY: The Chairperson at the request
of the County Executive

Legislative Day 19
Date: December 6, 2021

Amendment No. 2

(This amendment makes a technical correction to add "gender identity or expression" as included in the list of prohibited discriminatory practices into new language proposed to be added by this Act and into currently existing language where it should have been added when that category was added to the Code.

This also makes a technical correction to remove language within brackets that is being shown as new law and to add a "the".)

- 1 On page 5, in line 5, strike "OR DENIES A DWELLING".
- 2
- 3 On page 5, in line 18, strike "OR" and substitute a comma.
- 4 On page 5, in line 19, after "INCOME" insert ", OR GENDER IDENTITY OR EXPRESSION".
- 5
- 6 On page 6, in line 8, strike "or" and substitute a comma.
- 7 On page 6, in line 9, after "income" insert ", OR GENDER IDENTITY OR EXPRESSION".
- 8
- 9 On page 9, in line 11, after "IDENTITY" insert "OR EXPRESSION".
- 10
- 11 On page 13, in line 24, after "before" insert "THE".



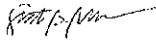
HOWARD COUNTY HUMAN RIGHTS COMMISSION

9820 Patuxent Woods Drive, Suite 237 ■ Columbia, Maryland 21046 ■ 410-313-6430
 FAX 410-313-6468 Voice/Relay

Yolanda F. Sonnier, Executive Secretary
 HRC Email: hrc@howardcountymd.gov
 Fatina Jackson, Recording Secretary
 Melissa Goldmeier, Legal Counsel

Scott B Markow, Chairperson
 Chuen-Chin Bianca Chang, Vice Chair
 Mabrooka Chaudhry, Commissioner
 Lynda Earle, Commissioner
 Bob Ford, Commissioner
 Joan Hash, Commissioner
 Jonah Hornum, Commissioner
 Peter Hwang, Commissioner
 Tiffany Releford, Commissioner
 Gabriel Terrasa, Commissioner
 Sahara Ukaegbu, Commissioner
 Kui Zhao, Commissioner

To: Howard County Council Members

From: Scott B. Markow 
 Chair, Howard County Human Rights Commission

Date: November 22, 2021

Re: Testimony in Support of CB85-2021

The Howard County Human Rights Commission (HRC) strongly supports Council Bill CB85-2021. This bill contains several important amendments to the Howard County Code, Sections 12.207, 12.207A and 12.217, related to unlawful housing practices, commercial leases, and nonexclusive remedies.

Most important among these is the addition of commercial leasing throughout the list of unlawful housing practices set forth in Section 12.207A. We believe it is just as important that small business owners be protected against discrimination in commercial leases as tenants are when renting residential housing. This will close a significant loophole in the current housing discrimination code.

The amendments to the definition of source of income in Section 12.207 are also needed in order to bring the Howard County Code into conformity with state and federal law. Finally, the amendments to Section 12.217 will allow the Office of Human Rights and Equity (OHRE) or the HRC to terminate administrative proceedings in the event a complainant also sues in any state or federal court with jurisdiction. This will reduce administrative burdens on both the OHRE and HRC, while also avoiding inconsistent outcomes and forum shopping.

For all of the foregoing reasons, the HRC urges the County Council to enact CB85-2021.

Sayers, Margery

From: hrc
Sent: Monday, November 22, 2021 5:14 PM
To: CouncilMail
Cc: Sonnier, Yolanda; Scott Markow (HRC)
Subject: HRC Testimony in Support of CB85-2021
Attachments: HRC Legislative Support.pdf

Good Afternoon Council Members,

Please find attached the HRC Legislative Support memo asking for your support of Council Bill CB85-2021, related to unlawful Housing Practices, Commercial Leases, and nonexclusive remedies for the Housing Discrimination section of the Howard County Code. Please let me know should you have any questions.

Thank you,

Fatima Jackson
HRC Recording Secretary
410-313-6457



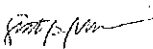
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For all of the foregoing reasons, the HRC urges the County Council to enact CB85-2021.

Office of the County Auditor
Auditor's Analysis

Council Bill No. 85-2021

Introduced: November 1, 2021

Auditor: Owen Clark

Fiscal Impact:

Our Office does not anticipate any fiscal impact to result from the passage of this legislation.

The Administration has indicated that it does not expect any increase in County investigations as a result of changes due to Council Bill 85-2021. Several of the proposed changes are codifying existing State law, aligning County practices to State requirements.

Purpose:

The purpose of this legislation is to revise Title 12 – “Health and Social Services”, Subtitle 2 – “Human Rights” of the County Code, which pertains to unlawful housing practices. These changes include:

- Revising the definition of a “source of income.”
- Adding provisions to the list of prohibited unlawful acts.
- Adding certain exemptions to the provisions prohibiting unlawful housing practices.
- Including commercial leasing practices in County Code provisions which prohibit unlawful housing practices.
- Prohibiting certain commercial leasing practices which discriminate against the rights of a lessee.

Other Comments:

None.