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# Bill Synopsis

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## **Subject | Source of Income Discrimination (18-0308)**

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### **Policy Objectives**

- Amend the city code's definitions of discrimination and restrictive covenants, and "source of income" (SOI)
- Amend the city code's unlawful housing practices to include SOI discrimination

### **Background**

The Housing Choice Voucher Program (formerly Section 8) is a federally funded program that began in 1974. Most Housing Choice Vouchers (HCVs) require families to pay 30% of their annual income on rent. The rest is paid for by the local Public Housing Authority (PHA), in this case the Housing Authority of Baltimore City (HABC),

A SOI definition already exists in Baltimore City Code. However, it is narrowly applied to the city's inclusionary housing law. This bill aims to broaden the scope of how SOI can be applied to protect housing voucher recipients.

There are approximately 13,000 households using vouchers in Baltimore; nationwide there are 2.2 million families with vouchers.<sup>1</sup> Current federal law does not prevent landlords from rejecting HCV recipients solely because of voucher use. Nationwide, only 34% of families with vouchers live in municipalities with source of income protections.<sup>2</sup>

### **Recommendation**

SOI anti-discrimination legislation is a key policy to protect voucher participants as they search for housing. The Fiscal Legislative Analyst recommends passing this legislation. However, expanding the definition of SOI legislation must be considered in the context of policy implementation, as well as the overall policy goals, of HCVs. As a program of the Department of Housing and Urban Development (HUD),

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<sup>1</sup> "About HCVs in Baltimore" [http://www.baltimorehousing.org/housing\\_choice\\_voucher\\_program](http://www.baltimorehousing.org/housing_choice_voucher_program)

"Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results", (1)

<https://www.cbpp.org/sites/default/files/atoms/files/10-10-18hous.pdf> This is an estimation from the Center for Budget and Policy Priorities.

<sup>2</sup> Ibid, (3)

implementers of HCVs across the country have a responsibility to “affirmatively further fair housing practices.” SOI antidiscrimination legislation alone will not make a significant impact in the de-concentration of voucher users in certain neighborhoods, nor can it be reasonably assumed that this legislation will result in a significant increase in families that move to low-poverty neighborhoods. Recommendations are offered at the end of this memo that should be explored to strengthen City Council Bill 18-0308, as well as the HCV program.

## Fiscal Impact

As the bill is currently written, there is no fiscal impact to the city. This is confirmed in the Department of Finance’s memo submitted to the City Council on December 7, 2018. However, if HABC chooses to adopt some of the recommendations offered at in this memo, this legislation will not be cost neutral to the city; it will likely require additional staff and office resources to properly administer and enforce this legislation.

## Research

Studies from HUD as well as other researchers suggest that SOI protections have the potential to increase voucher acceptance rates. However, the research is modest and warrants further study.

HUD commissioned a pilot study of voucher acceptance rates by landlords in five cities across the country. The study found that potential voucher users who called to inquire about a property’s availability were accepted 65% of the time in places with SOI antidiscrimination laws versus 23% of the time in jurisdictions without SOI antidiscrimination laws.<sup>3</sup> However, these findings are largely based on the experience of white female-sounding testers calling potential landlords. In a city where 94% of all voucher users are black, it is hard to imagine that SOI antidiscrimination legislation in Baltimore would be as effective.<sup>4</sup>

Success rates are defined “as the percentage of vouchers issued to families that are successful in leasing, given the time frame available to families.”<sup>5</sup> A family has 60 days from the issuance of a voucher to finalize a rental contract; the HABC can choose to grant extensions on a case by case basis. The HABC has a success rate of about 60%.<sup>6</sup> A study from 2001 of 2,600 voucher users from 48 PHAs estimate that all else being equal (race, gender, income) “the probability of successfully using one’s voucher within the program time frame was 12 percentage points higher in jurisdictions with SOI antidiscrimination” laws compared to those without.<sup>7</sup>

Researchers from another study confirmed these results. They found that in jurisdictions with SOI laws, success rates are five to 12 percentage points higher than those without SOI laws.<sup>8</sup> This means that the

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<sup>3</sup> “Prohibiting discrimination against renters using housing vouchers improves results”, (6) <https://www.cbpp.org/sites/default/files/atoms/files/10-10-18hous.pdf>

<sup>4</sup> “HUD Portrait of Subsidized Housing, HCVs, Baltimore City” <https://www.huduser.gov/portal/datasets/assthsg.html>

<sup>5</sup> “Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results”, (7) <https://www.cbpp.org/sites/default/files/atoms/files/10-10-18hous.pdf>

<sup>6</sup> Conversation with Corliss Alston, Deputy Director of HABC’s HCV Program.

<sup>7</sup> “Source of Income Discrimination and Fair Housing Policy”, (8) <https://journals.sagepub.com/doi/abs/10.1177/0885412216670603>

<sup>8</sup> “Source of Income Discrimination and Fair Housing Policy”, (8) <https://journals.sagepub.com/doi/abs/10.1177/0885412216670603>

HABC could serve an additional 650 to 1,560 families with their available funds. This would increase the number of households served in the city of Baltimore by approximately 8.5%.<sup>9</sup>

## Potential Benefits

This bill has the potential to make it easier for families with vouchers to move out of neighborhoods with high concentrations of poverty. Nationwide, only 14% of families with children using HCVs live in low-poverty neighborhoods (where fewer than 10% of residents have incomes below the Federal Poverty Level).<sup>10</sup> Research demonstrates that children who move to low-poverty neighborhoods before middle school have significantly better life outcomes than those that remain in neighborhoods with high concentrations of poverty. However, the research on the effects of SOI discrimination on access to low-income neighborhoods is mixed.<sup>11</sup>

## Unintended Consequences

There is no national research to suggest that this legislation would have unintended, negative consequences. However, it must be noted that there is no on the record testimony from current Baltimore City voucher recipients that could speak to the experiences of current voucher users, and the potential negative, or positive, consequences of this legislation.

## Other Jurisdictions

Nationwide, 11 states – including Washington, D.C., 15 counties, and 50 cities have enacted laws that prohibit discrimination solely based on SOI and protect housing choice voucher users.<sup>12</sup>

**Table 1, Neighboring Jurisdictions with SOI antidiscrimination laws**

Jurisdiction	Voucher Holders Covered (2017)	Date Enacted
Washington, D.C.	12,186	2005
Montgomery County, MD	7,058	1991
Howard County, MD	1,938	1992
Frederick County, MD	1,173	2002
Annapolis, MD	396	2007

<sup>9</sup> Assume 13,000 households, no attrition, an additional 1105 households could receive vouchers (mean of range 650 – 1,560).

<sup>10</sup> “Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results”, (2)  
<https://www.cbpp.org/sites/default/files/atoms/files/10-10-18hous.pdf>

<sup>11</sup> “Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results”, (8)  
<https://www.cbpp.org/sites/default/files/atoms/files/10-10-18hous.pdf>

<sup>12</sup> “Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results”, (16-21)  
<https://www.cbpp.org/sites/default/files/atoms/files/10-10-18hous.pdf>

There are three states that have SOI antidiscrimination legislation, but they do not protect voucher holders as well. They are California, Delaware, and Wisconsin. “Appendix B: State, Local and Federal Laws Barring Source-of-Income Discrimination”  
<https://www.prrac.org/pdf/AppendixB.pdf>

## Stakeholders<sup>13</sup>

- Department of Housing and Community Development || supports
- Housing Authority of Baltimore City || supports
- Office of Civil Rights and Wage Enforcement || supports
- Maryland Multi-Housing Association (MMHA) || supports with 5% threshold amendment
- Upton Planning Commission || supports with amendment
- ACLU of Maryland || supports
- Greater Baltimore Board of Realtors (GBBR) || opposes

## Recommendations

Many of the recommendations provided in this section are outside of the council's authority. However, they are included for the sake of a complete analysis of this SOI antidiscrimination legislation. This legislation is meant to protect voucher holders and to affirmatively further fair housing practices; these recommendations are offered in that spirit. Several of the proposed recommendations include examples of how other jurisdictions across the country have addressed these policy areas.

## SOI recommendations

### 1. Work with HABC to develop an enforcement and implementation strategy

The success of SOI laws depend on enforcement and education. Currently, the legislation changes definitions in the city code to update unlawful housing practices. There is neither an administrative nor court enforcement mechanism included in the legislation. In order for this legislation to be most effective, the HABC might want to consider an enforcement mechanism as well an education campaign to inform tenants of their rights, as well as inform landlords of their legal responsibility to not discriminate against voucher holders solely because of their source of income.

### 2. Amend the legislation to require landlords to agree to an initial 1-year lease

HUD will not approve 6 month leases. A landlord could accept a voucher recipient, but then write an initial 6-month lease as the first contract, thus skirting the proposed SOI legislation.

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<sup>13</sup> The following stakeholders listed based on the FLA's awareness of a particular agency, department, or community organization's stated position at the time of publication.

### **3. Expand available assistance for voucher holders in their search**

One of the goals of this legislation is to help families access any available rental property in the city. There are several program administration options that could be explored to help families navigate the voucher search process: expand the search time, provide comprehensive housing counseling, regularly monitor and update HABC's list of available units, and actively recruit landlords in low-poverty neighborhoods to support the de-concentration of voucher users in certain neighborhoods.<sup>14</sup>

### **4. Work with landlord associations to combat misperceptions of SOI laws**

This legislation does not prevent landlords from evaluating applicants on any number of screening criteria, including by credit score, criminal history, or references. Moreover, this legislation does not prevent landlords from charging potential tenants, including voucher holders, a security deposit. (Up until 1994, it was illegal for landlords to charge voucher holders security deposits.)

The HABC already conducts extensive background checks on all potential household members ages 14 or older for income requirements, criminal background, prior convictions in federally assisted housing, and lifetime registration of sex offenders. It is unclear whether landlords in Baltimore who do not accept vouchers are aware of the extensive screening that potential voucher recipients must undergo. An education campaign to make landlords aware of this extensive screening process might make more landlords interested in accepting vouchers.

For example, in Oregon, a foundation created materials and videos for landlords on implementation questions related to their SOI law while advocates and legal services attorneys conducted trainings for landlords.<sup>15</sup>

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<sup>14</sup> "A Pilot Study of Landlord Acceptance of Housing Choice Vouchers," (69) <https://www.huduser.gov/portal/pilot-study-landlord-acceptance-hcv.html>

<sup>15</sup> "Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results", (11) <https://www.cbpp.org/sites/default/files/atoms/files/10-10-18hous.pdf>

## Complementary policies to support voucher participants

### 1. Explore adopting Small Area Fair Market Rents (SAFMRs)

Right now the HABC uses Fair Market Rents (FMRs) to set voucher limits.<sup>16</sup> FMRs are set for an entire jurisdiction, without taking into account the median rent patterns of a particular neighborhood. Table 2 outlines the current Fair Market Rents offered to voucher holders.

**Table 2, Fair Market Rents (FMRs) 2019**

Studio	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom
\$862	\$1,074	\$1,342	\$1,732	\$1,992

SAFMRs set rents at the 40th percentile of a particular zip code, instead of one flat rental rate for a city with a very diverse rental market.<sup>17</sup> HABC can choose to use SAFMRs, only 24 PHAs around the country are mandated to use SAFMRs. Approximately one quarter (27%) of Baltimore landlords interviewed in a study on landlord voucher acceptance behavior voluntarily shared that voucher rents are higher than what they could get on the private market.<sup>18</sup> By adopting SAFMRs, voucher recipients would have the opportunity to move to more low-poverty neighborhoods, while correcting a market imbalance. Table 3 offers a sample of what SAFMRs would be across the city, were HABC to adopt these rents.

**Table 3, Small Area Fair Market Rents (SAFMRs) 2019**

Zip Code	Studio	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom
21210	\$890	\$1,100	\$1,380	\$1,780	\$2,050
21213	\$830	\$1,020	\$1,270	\$1,640	\$1,900
21215	\$830	\$1,020	\$1,270	\$1,640	\$1,900
21217	\$830	\$1,020	\$1,270	\$1,640	\$1,900
21224	\$910	\$1,140	\$1,420	\$1,830	\$2,110

### 2. Support HABC in tracking and regularly updating performance metrics related to HCV administration

Besides tenant personal qualifications, landlords cite the enrollment process as a deterrent to program participation. For example, a recent qualitative survey of 36 landlords in Baltimore found that 50% cited inspections as burdensome and costly.<sup>19</sup> Fifty percent also found interactions with

<sup>16</sup> "FY 2019 Fair Market Rent Documentation System" <https://www.huduser.gov/portal/datasets/fmr.html>

<sup>17</sup> "FY 2019 Small Area Fair Market Rents" <https://www.huduser.gov/portal/datasets/fmr/smallarea/index.html>

<sup>18</sup> "Taking Stock: What Drives Landlord Participation in the Housing Choice Voucher Program" (14) [https://static1.squarespace.com/static/569c329d57eb8d0f114bf4c6/t/5bb2c3a8a4222f9a86e328ab/1538442155861/Garboden\\_Rosen\\_TakingStock\\_HPDP\\_2018.pdf](https://static1.squarespace.com/static/569c329d57eb8d0f114bf4c6/t/5bb2c3a8a4222f9a86e328ab/1538442155861/Garboden_Rosen_TakingStock_HPDP_2018.pdf)

<sup>19</sup> Ibid, (16)

the HABC to be a negative factor.<sup>20</sup> While the HABC suffered from program administration issues in the past, current testimony from HABC suggests that this is not the case. However, there are steps that HABC could take to disseminate accurate information related to the current administration of HCVs.

The HABC could track, on at least a quarterly basis, metrics related to program administration. This could include: average inspection time, most common code violations for failed inspection, average time from initiation of contract to first rent payment (currently estimated between 32 – 53 days),<sup>21</sup> average time to answer landlord question, average time to resolve landlord – tenant disputes, as well as information that contextualizes HABC’s HCV performance metrics.

By regularly tracking performance metrics, HABC can demonstrate commitment to landlord customer service, as well as identify areas of program administration improvement. This information could also assuage landlord concerns about renting to voucher holders.

### **3. Create programs to incentivize landlord acceptance of HCVs**

There are real and perceived administrative costs to landlords who participate in the voucher program to be in compliance with HUD regulations. However, landlords are an important and necessary partner in increasing access and choice for voucher holders.

A common complaint from landlords is that voucher tenants damage properties leaving landlords with no way to recoup repair costs. Both Oregon and Washington set aside “damage mitigation funds” for landlords that accept vouchers. These funds compensate landlords up to \$5,000 for property damage or unpaid rent. Washington funds the administration of this program from document recording fees.<sup>22</sup>

The Marin Housing Authority in California has a damage mitigation fund that goes beyond security deposits and damage reimbursement. Their Landlord Participation Program not only provides up to \$2,500 for a security deposit, but waives permit fees for participating landlords and administers a 24-hour hotline to rapidly respond to landlord concerns.<sup>23</sup>

The housing authority could also set up low interest or zero interest loans to assist landlords with making necessary repairs in order to be able pass HABC inspections and rent to HCV holders.

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<sup>20</sup> Ibid, (16)

<sup>21</sup> This estimate is based on HCVP fact sheet provided to author by Corliss Alston, it is unclear whether or not the time frame provided is based on business days or calendar days. It also does not provide any real-time analysis of the average amount of days it takes to finalize a contract.

<sup>22</sup> “Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results”, (14)

<https://www.cbpp.org/sites/default/files/atoms/files/10-10-18hous.pdf>

<sup>23</sup> “A Pilot Study of Landlord Acceptance of Housing Choice Vouchers”, (67) <https://www.huduser.gov/portal/pilot-study-landlord-acceptance-hcv.html>

#### 4. Partner with surrounding counties to adopt SOI protections

Currently, an HABC issued voucher can be used by the family anywhere, and the HABC will fund the voucher at the Fair Market Rent value for that jurisdiction. However, the only county relatively close to Baltimore with SOI protections is Howard County. In order for families to have more choice, other adjacent counties, including Baltimore County and Anne Arundel County, could adopt this same SOI antidiscrimination legislation.

**Figure 1, Percentage of HCV Units by Census Tract – Per 1,000 Rental Units**

Data Sources: "Picture of Subsidized Housing" [HUD](#), ACS Estimate Total Renter Occupied Units, B25003

Map Provided by: Sam Helmey, Data Analyst, Baltimore Regional Housing Partnership

HCV Assisted Share of Rental Units  
by Census Tract

