

**Testimony on behalf of National Homelessness Law Center in *Support* of LD 1710, An
Act to Establish the Maine Rental Assistance and Guarantee
Program and Amend the Laws Regarding Tenants and the
Municipal General Assistance Program
May 12, 2023**

The National Homelessness Law Center (“Law Center”) is pleased to submit the following testimony in *support* of Bill LD 1710, particularly the provisions amending the Maine Human Rights Act to prohibit discrimination in housing based on source of income when that income is a federal, state or local tenant-based rental assistance program.

The mission of the Law Center is to fearlessly advance federal, state and local policies to prevent and end homelessness while fiercely defending the rights of all unhoused persons. The Law Center envisions a society where every person can live with dignity and enjoy their basic human rights, including the right to affordable, quality, and safe housing. The Law Center drives and supports federal, state, and local policies that will prevent and end homelessness, such as LD 1710.

History of Source of Income Non-discrimination Laws

“Source of income discrimination” refers to the practice of refusing to rent to a housing applicant because of that person’s lawful form of income. Most commonly, this form of discrimination is levied against households using Housing Choice Vouchers (HCVs, also known as Section 8 vouchers) and other forms of government-funded housing assistance.¹ Source of income (SOI) discrimination can serve as a pretext for other prohibited forms of discrimination and disproportionately affects renters of color, women, and persons with disabilities.²

To address these challenges, state and local legislators began prohibiting SOI discrimination through state and local fair housing laws beginning in the 1970s, steadily spreading across the country, and increasing exponentially beginning in the mid-2000s.³ Today, SOI laws protecting families with vouchers cover 18 states and over 100 local municipalities, protecting over half of all U.S. families with vouchers.⁴

¹ See American Bar Ass’n, Report to Resolution 119A (Annual Meeting 2017) (“The most common form of source of income discrimination is the denial of housing to families who rely on government-funded rental assistance, such as the federally-funded Housing Choice Voucher Program.”), attached herein as Attachment B.

² See Antonia Fasanelli and Philip Tegeler, Your Money’s No Good Here: Combatting Source of Income Discrimination in Housing, Human Rights Magazine, No. 44 Vol. 3, Nov. 2019, available at https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/economic-justice/your-money-s-no-good-here--combatting-source-of-income-discrimin/

³ See Alison Bell et al., Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results, Ctr. on Budget & Policy Priorities (Dec. 20, 2018), available at <https://www.cbpp.org/sites/default/files/atoms/files/10-10-18hous.pdf>

⁴ See generally Poverty & Race Research Action Council, Appendix B: State, Local, and Federal Laws Barring Source-of-Income Discrimination (Updated May 2023), available at <http://www.prrac.org/pdf/AppendixB.pdf>.

Voucher Discrimination Concentrates Poverty and Exacerbates Homelessness

Lack of SOI protection can lead to dire outcomes. Voucher holders who are lucky enough to find landlords to accept their vouchers in non-SOI protected areas are more likely to live in impoverished and racially segregated neighborhoods than non-voucher renters.⁵ This segregation restrains positive health outcomes for low-income women,⁶ educational progress for children, and employment opportunities that come from relocation to lower poverty and racially segregated communities.⁷ Conversely, jurisdictions with SOI protection, have seen deconcentrations of poverty, as the attached map of Montgomery County, Maryland – one of the wealthiest counties in the Country – demonstrates.⁸

For families unable to use their vouchers, SOI discrimination contributes to food insecurity, domestic violence, child separations and – most significantly – homelessness. As the largest rental housing subsidy program in the country,⁹ the HCVP program is the federal government’s primary tool to ending homelessness.¹⁰ Nevertheless, families wait – often years – for their name to come to the top of the waiting list and the must find an available unit within a limited amount of time.¹¹ A recent Denver study found only 44% of unhoused people surveyed had ever personally, or known anyone personally, who has found housing with a voucher, citing landlord discrimination as a primary reason why.¹² To be clear: the lack of SOI protection across the country, including in Maine, prolongs homelessness.

In 2017, the American Bar Association adopted a Resolution and Report urging all governments to prohibit discrimination based on source of income.¹³ The Report summarized the experience of an honorably discharged Coast Guard Veteran, Jill Williams:

⁵ See Molly W. Metzger, The Reconcentration of Poverty: Patterns of Housing Voucher Use 2000-2008, *Housing Policy Debate* 24:3 at 552 (2014), available at <https://rampages.us/aliciagarcia/wp-content/uploads/sites/14178/2016/03/The-Reconcentration-of-Poverty-Patterns-of-Housing-Voucher-Use-2000-to-2008.pdf>

⁶ See Jens Ludwig, Ph.D, et al., Neighborhoods, Obesity, and Diabetes – A Randomized Social Experiment, *The New England Journal of Medicine* (Oct. 20, 2011) (finding that female heads of voucher households able to relocate to lower poverty communities reduced their risk for extreme obesity by 19% and reduced their risk of diabetes by 21%).

⁷ See Chetty, R., & Hendren, N., The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates, Cambridge, M.A.: Harvard University and National Bureau of Economic Research (2015), available at http://www.equality-of-opportunity.org/images/nbhds_paper.pdf

⁸ See Attachment A.

⁹ See US Dep’t Hsg. And Urban Dev., Using HUD Administrative Data to Estimate Success Rates and Search Durations for New Voucher Recipients, Dec. 2021 page iii (“The Housing Choice Voucher program is HUD’s largest rental housing subsidy, serving over 2.3 million households.”)

¹⁰ See US Interagency Council on Homelessness, All In: Federal Strategic Plan to End and Prevent Homelessness, Nov. 2022, page 21, available at https://www.usich.gov/All_In.pdf (noting that the American Rescue Plan and the Fiscal Year 2023 proposed budget relied on significant increases in housing subsidies, including HCVPs, to prevent homelessness).

¹¹ *Supra* Note 9 (“Low-income families wait, sometimes for many years, for their name to come to the top of the waiting list. When finally offered a voucher, recipients must find a unit that they like and that meets all program requirements. Additionally, the landlord must be willing to accept the voucher and rent the unit to them, all within 180 days.”)

¹² See Housekeys Action Network Denver, Pipe Dreams & Picket Fences: Direction from Denver’s Homeless People on Housing Needs and Priorities in the Context of Today’s Public Housing, Mar. 2023, page 9, available at <https://wraphome.org/pipe-dreams-and-picket-fences/>.

¹³ *Supra* Note 1.

“In 2017, a veteran of the U.S. Coast Guard testified before the Maryland General Assembly about difficulties using her VASH voucher because of landlord discrimination. ‘I was only able to use my voucher after a housing specialist from the VA told me about properties in [a particular area] that take Section 8. Let me be clear, this is not where I want to live. But . . . I was at the point where my voucher was about to expire. I am a U.S. veteran – I signed on the line to protect my fellow citizens and I did so honorably. I have no Criminal Record. Yet . . . the same landlords that wanted me to sacrifice my life to protect them won’t even let me live in their buildings.’”¹⁴

HCVP vouchers designated for military veterans through the Veterans Affairs Supportive Housing Voucher Program, known as HUD-VASH, have housed over 144,000 previously unhoused veterans since 2008.¹⁵ Yet, the U.S. Department of Housing and Urban Development (HUD) reports that landlord unwillingness to accept vouchers is a “primary challenge” in the administration of the program.¹⁶

Fair Housing Laws Prohibiting Source of Income Discrimination Improve Operations of the HCVP Program

Discrimination against voucher holders hinders the effectiveness of the HCVP program, not just for the families attempting to use the program, but for the public housing agencies operating the programs. Public housing agencies in jurisdictions with laws banning source of income discrimination report improved utilization rates¹⁷ of 5 to 12 percentage points higher than jurisdictions without source of income discrimination.¹⁸

Furthermore, research shows that voucher holders are more likely to be able to use their vouchers in jurisdictions with SOI protections.¹⁹ The rate at which voucher holders actually lease-up using their vouchers is called a “success rate.” “Low success rates are frustrating for families and burdensome for PHAs, which typically make an unused voucher available to another family.”²⁰

In 2021, HUD released “success rate” data for two-thirds of the Public Housing Agencies (PHAs) in the country based on 2018 and 2019 data.²¹ The national average success rate across these PHAs, in jurisdictions with and without SOI protection, was 61% over a maximum 180-day lease-up period.²² Though the HUD data has not officially been cross-analyzed with SOI protected jurisdictions, a hand-calculated analysis of the success rate

¹⁴ *Supra* Note 1, Report page 3.

¹⁵ *See* Nat’l Alliance to End Homelessness, Veterans Fact Sheet, available at

<https://endhomelessness.org/homelessness-in-america/who-experiences-homelessness/veterans/>

¹⁶ *See* U.S. Department of Housing and Urban Development, HUD-VASH Best Practices – Version 1.0, Apr. 2012, page 11 available at <http://portal.hud.gov/hudportal/documents/huddoc?id=VASH-BestPractices.pdf>

¹⁷ *Supra* Note 3 page 7 (“HUD defines a PHA’s ‘utilization rate’ as either the overall percentage of the annual budget authority spent, or the percentage of authorized vouchers leased, whichever is higher”).

¹⁸ *Supra* Note 3 page 6, citing Lance Freeman, The impact of source of income laws on voucher utilization, Housing Policy Debate, March 2012, pp. 297-318.

¹⁹ *Supra* Note 3 page 6 (“Several studies have found that voucher holders in areas with voucher non-discrimination protections are more likely to succeed in using their vouchers to lease a unit.”; referencing HUD and Urban Institute studies from 2001 and 2018, respectively).

²⁰ *Supra* Note 3 page 7.

²¹ *Supra* Note 9.

²² *Supra* Note 9.

table for states with SOI protection by 2017 places the average success rate at 69.8%, a solid 8.8 percentage points above the national combined average of SOI protected and non-protected jurisdictions alike.

The average success rate amongst the reporting Maine Housing Agencies is 63%, as the table below provides. By comparison, the average success rate amongst the PHAs in nearby Vermont, which has had SOI protection since 1987 is 77%, and Utah with a large rural population passed SOI protection in 1989 and has a 75% average success rate amongst its reporting PHAs.

Maine Housing Agency Success Rates

PHA code	PHA name	Year	Success rate (180 day)
ME001	Van Buren Housing Authority	2018	0.888888889
ME003	Portland Housing Authority	2018	0.583333333
ME003	Portland Housing Authority	2019	0.603550296
ME005	Lewiston Housing Authority	2018	0.855769231
ME005	Lewiston Housing Authority	2019	0.947368421
ME007	Auburn Housing Authority	2018	0.559440559
ME007	Auburn Housing Authority	2019	0.490384615
ME018	Old Town Housing Authority	2018	0.45
ME018	Old Town Housing Authority	2019	0.588235294
ME020	South Portland Housing Authority	2019	0.583333333
ME021	Brewer Housing Authority	2019	0.4
ME025	Caribou Housing Authority	2018	0.723404255
ME025	Caribou Housing Authority	2019	0.553191489
ME028	Biddeford Housing Authority	2018	0.65
ME030	Augusta Housing Authority	2018	0.615384615
ME030	Augusta Housing Authority	2019	0.602564103
ME901	Maine State Housing Authority	2018	0.70505618
ME901	Maine State Housing Authority	2019	0.578431373
Average Success Rate			0.63212977

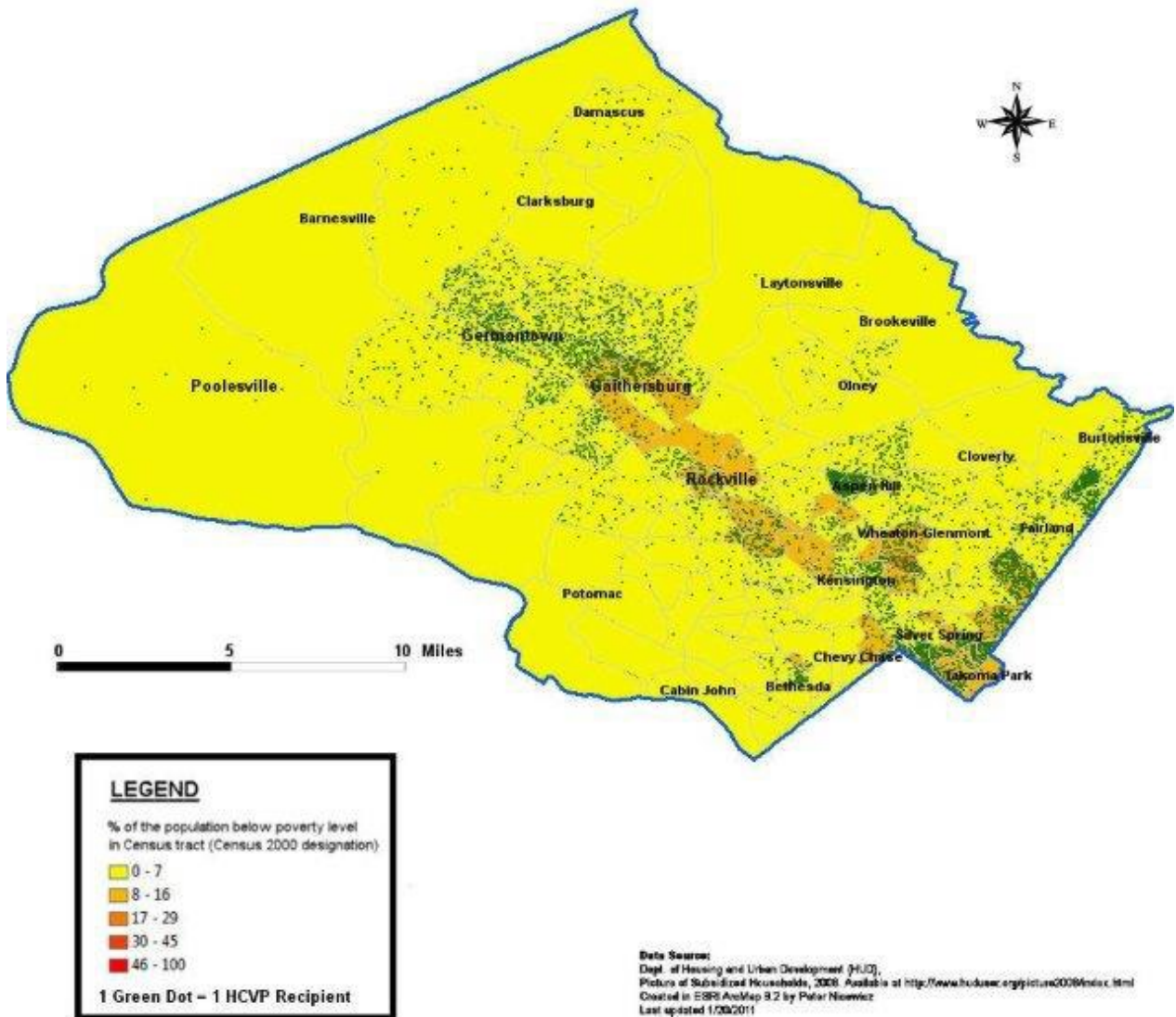
Published in <https://www.huduser.gov/portal/publications/Using-HUD-Administrative-Data-to-Estimate-Success-Rates.html>

In conclusion, housing is a basic life necessity and human right;²³ SOI protections are an essential step toward realizing that right for Maine’s residents. SOI laws improve PHA operations, deconcentrate poverty and help end homelessness. With a negligible cost to implementation, SOI laws are one of the most cost-effective tools to alleviate poverty and homelessness. For all these reasons, the National Homelessness Law Center urges passage of LD 1710. Thank you for considering this testimony.

²³ See Eric Tars, [Housing As A Human Right](https://nlihc.org/sites/default/files/2016AG_Chapter_1-6.pdf#:~:text=According%20to%20the%20UN%20Committee%20on%20Economic%2C%20Social,accountable%20if%20all%20those%20elements%20are%20not%20satisfied), 2016, available at https://nlihc.org/sites/default/files/2016AG_Chapter_1-6.pdf#:~:text=According%20to%20the%20UN%20Committee%20on%20Economic%2C%20Social,accountable%20if%20all%20those%20elements%20are%20not%20satisfied (“In 1948, the United States signed the Universal Declaration of Human Rights (UDHR), recognizing housing as a human right.”)

ATTACHMENT A

MONTGOMERY COUNTY, MARYLAND TRACT POVERTY LEVEL AND CONCENTRATION OF HOUSING CHOICE VOUCHER PROGRAM (HCVP) HOUSEHOLDS



ATTACHMENT B

American Bar Association Resolution 119A Annual Meeting 2017

AMERICAN BAR ASSOCIATION

ADOPTED BY THE HOUSE OF DELEGATES

AUGUST 14-15, 2017

RESOLUTION

RESOLVED, That the American Bar Association urges federal, state, local, tribal, and territorial governments to enact legislation prohibiting discrimination in housing on the basis of lawful source of income.

REPORT

The American Bar Association has a long tradition of actively opposing discrimination on the basis of classifications including race, gender, national origin, disability, age, sexual orientation, and gender identity and expression. The Association has adopted policies calling upon local, state, and federal lawmakers to prohibit such discrimination in housing, as well as in public accommodations, credit, education, and public funding and has sought to eliminate such discrimination in all aspects of the legal profession.¹ The ABA's fundamental position condemning such discrimination is based on its underlying commitment to the ideal of equal opportunity and advancement of human rights.² These two principles united in August 2013, when the ABA adopted policy to urge governments to "promote the human right to adequate housing for all" and to "prevent infringement of that right."³

A common form of discrimination in housing is the denial of housing based on a housing applicant's lawful source of income. As a threshold matter, lawful source of income includes income from: 1) a lawful profession, occupation or job; 2) 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; 3) a gift, an inheritance, a pension, an annuity, alimony, child support, or other consideration or benefit; or 4) the sale or pledge of property or an interest in property. Lawful source of income does not prevent a property owner from determining, in a commercially reasonable and non-discriminatory manner, the ability of a housing applicant to afford to purchase or rent the property.

Every year, families are rejected from housing of their choice because their income, albeit lawful and sufficient in amount, is not accepted by a property owner. Often the denial of housing will serve as a pretext for a prohibited form of discrimination. For example, a property owner who does not want to rent to elderly persons will simply deny a housing application claiming that retirement benefits are not a sufficient source of income. A property owner who does not wish to rent to persons with disabilities will tell an applicant on Supplemental Security Income (SSI) that government benefits are not an acceptable source of income.

The most common form of source of income discrimination is the denial of housing to families who rely on government-funded rental assistance, such as the federally-funded Housing Choice Voucher Program.

¹ See, e.g., resolutions adopted 8/65 (addressing race, color, creed, national origin); 8/78 (race); 8/72, 2/74, 2/78, 8/74, 8/75, 8/80, 8/84 (gender); 8/86 (race and gender); 2/72 (sex, religion, race, national origin); 8/77 ("handicap"); 8/87 (condemning hate crimes related to race, religion, sexual orientation, or minority status); 8/89 (urging prohibition of sexual orientation discrimination in employment, housing and public accommodation); 9/91 (urging study and elimination of judicial bias based on race, ethnicity, gender, age, sexual orientation and disability); 2/92 (opposing penalization of schools that prohibit on-campus recruiting by employers discriminating on the basis of sexual orientation); 8/94 (requiring law schools to provide equal educational and employment opportunities regardless of race, color, religion, national origin, sex or sexual orientation); 8/06 (addressing gender identity and expression).

² Am. Bar Ass'n, *ABA Mission and Goals*, available at http://www.americanbar.org/utility/about_the_aba/aba-mission-goals.html (last visited April 10, 2017).

³ Resolution adopted 8/2013.

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The Housing Choice Voucher Program

The Housing Choice Voucher Program (HCVP), also known as “Section 8,” is the largest subsidized housing program in the United States.⁴ The HCVP provides participating low-income families with a housing subsidy that covers a percentage of private market housing costs.⁵ The HCVP serves elderly persons, persons with disabilities, veterans,⁶ families and other vulnerable populations through eight population-specific sub-programs⁷ and is administered locally by Public Housing Agencies (PHA). In 2015, the Program served approximately 2.2 million families comprised of 5 million people.⁸

Low-income households wait years to receive HCVP vouchers,⁹ but not every voucher household succeeds in finding a housing unit.¹⁰ Those who receive vouchers typically must find a housing unit and a landlord willing to accept the voucher within two months.¹¹ This search can prove to be prohibitive for many households.

Discrimination against Voucher Holders

A 2001 national study on voucher usage found that households had less than a 50% chance to use their vouchers in some jurisdictions.¹² Furthermore, despite the HCVP’s stated goal to enable low-income families to relocate to communities of lower poverty or minority concentration,¹³ a recent study of voucher holders found that 41% are more likely to live in more impoverished and more racially segregated neighborhoods than non-voucher renters.¹⁴ This segregation of voucher holders restrains positive health outcomes for low-income women,¹⁵ educational progress for

⁴ U.S. Department of Housing and Urban Development, Housing Choice Voucher Fact Sheet, available at https://portal.hud.gov/hudportal/HUD?src=/topics/housing_choice_voucher_program_section_8.

⁵ Regulations governing the Housing Choice Voucher Program at found at 24 C.F.R. Part 982.

⁶ HCVs for veterans are known as HUD-VASH (Veterans Affairs Supportive Housing). The HUD-VASH program has provided vouchers and supportive services to 79,000 veterans since 2008 and is the primary reason that the United States has reduced veteran homelessness to just over 47,000 veterans, a 35% decline since 2009. See National Alliance to End Homelessness, Veterans – Overview, available at http://www.endhomelessness.org/pages/veterans_overview (last visited Apr. 10, 2017)

⁷ U.S. Department of Housing and Urban Development, Housing Choice Vouchers List, available at https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/about/list.

⁸ Center on Budget & Policy Priorities, Policy Basics: The Housing Choice Voucher Program. Washington, DC (2015).

⁹ E.g. Wick, J., The Waiting List For Section 8 Vouchers In L.A. Is 11 Years Long, available at http://laist.com/2017/04/04/section_8_waiting_list.php.

¹⁰ Office of Policy Development and Research, U.S. Dep’t of Housing and Urban Development, 1 Study on Section 8 Voucher Success Rates i (Nov. 2001), available at <https://www.huduser.gov/publications/pdf/sec8success.pdf>.

¹¹ U.S. Department of Housing and Urban Development, HUD-VASH Vouchers, available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/vash.

¹² *Supra* Note 10, at C-6.

¹³ U.S. Department of Housing and Urban Development, Housing Choice Voucher Guidebook, Ch. 2, available at https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/forms/guidebook

¹⁴ Molly W. Metzger, The Re-concentration of Poverty: Patterns of Housing Voucher Use 2000-2008, Housing Policy Debate 24:3 at 552 (2014), available at <https://rampages.us/aliciagarcia/wp-content/uploads/sites/14178/2016/03/The-Reconcentration-of-Poverty-Patterns-of-Housing-Voucher-Use-2000-to-2008.pdf>.

¹⁵ Jens Ludwig, Ph.D, et al., Neighborhoods, Obesity, and Diabetes – A Randomized Social Experiment, The New England Journal of Medicine (Oct. 20, 2011) (finding that female heads of voucher households able to relocate to lower poverty communities reduced their risk for extreme obesity by 19% and reduced their risk of diabetes by 21%).

children, and employment achievements that come from relocation to lower poverty and racially segregated communities.¹⁶

A primary cause of this segregation is landlord discrimination against voucher holders. A 2002 Chicago study found that voucher holders were denied access to 70% of the rental housing in the City because of landlord refusal or equivocation to accept households with vouchers.¹⁷ A recent HCVP participant summarized her experience as follows, “They [the owners] had the stigma about everybody that’s on Section 8 are nasty, the children tear up the house, that type of thing. So I ran into a lot of issues with that.”¹⁸ For veterans utilizing the Veterans Affairs Supportive Housing (VASH) vouchers, a sub-set of HCVP vouchers, the U.S. Department of Housing and Urban Development reports that landlord unwillingness to accept vouchers is a “primary challenge” in the administration of the program.¹⁹ In 2017, a veteran of the U.S. Coast Guard testified before the Maryland General Assembly about difficulties using her VASH voucher because of landlord discrimination. “I was only able to use my voucher after a housing specialist from the VA told me about properties in [a particular area] that take Section 8. Let me be clear, this is not where I want to live. But . . . I was at the point where my voucher was about to expire. I am a U.S. veteran – I signed on the line to protect my fellow citizens and I did so honorably. I have no Criminal Record. Yet . . . the same landlords that wanted me to sacrifice my life to protect them won’t even let me live in their buildings.”²⁰

Source of Income Non-discrimination Laws

To address discrimination against voucher holders and other persons with lawful source of income, state and local governments have enacted laws prohibiting discrimination based on lawful source of income. Currently, 12 states and the District of Columbia, including Utah, Oklahoma, and nearly 40 cities and counties including New York City, Chicago, Philadelphia, Boston, and Seattle, prohibit discrimination based on source of income.²¹

Laws prohibiting discrimination based on source of income have increased the ability of voucher holders to use vouchers and decreased concentrations of voucher holders.^{22/23} Indeed, source of income laws increase the number of voucher holders moving from high to low-poverty areas.²⁴

¹⁶ Chetty, R., & Hendren, N., The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates. Cambridge, M.A.: Harvard University and National Bureau of Economic Research (2015), available at http://www.equality-of-opportunity.org/images/nbhds_paper.pdf.

¹⁷ Lawyers’ Committee for Better Housing, Locked Out: Barriers to Choice for Housing Voucher Holders, 2002 at 11, available at <http://lcbh.org/sites/default/files/resources/2002-lcbh-housing-voucher-barriers-report.pdf>.

¹⁸ Wood, M., et al, Housing Affordability and Family Well-Being: Results from the Housing Voucher Evaluation, Housing Policy Debate 2008, p. 392.

¹⁹ U.S. Department of Housing and Urban Development, HUD-VASH Best Practices – Version 1.0, Apr. 2012, available at <http://portal.hud.gov/hudportal/documents/huddoc?id=VASH-BestPractices.pdf>.

²⁰ Testimony of Jill Williams before Maryland House Environment and Transportation Committee, Feb. 7, 2017.

²¹ Poverty & Race Research Action Council, Expanding Choice: Practical Strategies for Building a Successful Housing Mobility Program, Appendix B (March 2017).

²² *Supra* Note 10 at 3-17 (“enrollees in programs that are in jurisdictions with laws that bar discrimination based on source of income (with or without Section 8) had a statistically significantly higher probability of success of over 12 percentage points”).

²³ *Supra* Note 14 at 556.

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Laws Prohibiting Housing Discrimination are supported by International Human Rights Principles

The international community has long recognized the United States' failure to adequately fight against tenant discrimination. The U.S. has also already ratified the International Covenant on Civil and Political Rights and the International Covenant on the Elimination of All Forms of Racial Discrimination (both with endorsement from the ABA), both of which recognize the right to be free from discrimination, including in housing.²⁵

In 2006, the UN Human Rights Committee expressed concern about the disparate racial impact of homelessness in the U.S. and called for “adequate and adequately implemented policies, to ensure the cessation of this form of racial discrimination.”²⁶ In 2008, the UN Committee on the Elimination of Racial Discrimination again recognized racial disparities in housing and ongoing segregation in the U.S.²⁷

Conclusion

This policy will reaffirm the ABA's commitment to ensuring that decisions about housing are made on the basis of *bona fide* qualification rather than stereotypes or prejudices. By adopting this Resolution, the ABA can assist the work of housing advocates, lawmakers, and litigators that have tirelessly worked to end the cycle of poverty and right the long effects of racial and economic housing segregation in the United States.

²⁴ Freeman, Lance, and Yunjing Li, Do Source of Income Antidiscrimination Laws Facilitate Access to Less Disadvantaged Neighborhoods?, *Housing Studies* 29:88–107 (2014).

²⁵ U.S. reservations, declarations, and understandings, International Covenant on Civil and Political Rights, 138 Cong. Rec. S4781-01 (daily ed., April 2, 1992); International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976 (Article 2(1)); U.S. reservations, declarations, and understandings, International Convention on the Elimination of All Forms of Racial Discrimination, 140 Cong. Rec. S7634-02 (daily ed., June 24, 1994); International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195, entered into force Jan. 4, 1969 (Article 5(e)(i)). *See also*, ABA House Report 700 MY 1979; ABA House Report 921 AM 1978.

²⁶ Concluding Observations of the Human Rights Committee on the Second and Third U.S. Reports to the Committee, CCPR/C/USA/CO/3 (2006), at para. 22.

²⁷ Committee on the Elimination of Racial Discrimination, Consideration of Reports Submitted by State Parties Under Article 9 of the Convention: Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America, CERD/C/USA/CO/6 (2008), at para. 9.

Respectfully submitted,

Kirke Kickingbird
Chair, Section of Civil Rights and Social Justice
August 2017

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GENERAL INFORMATION FORM

Submitting Entity: Section of Civil Rights and Social Justice

Submitted By: Kirke Kickingbird, Chair, Section of Civil Rights and Social Justice

1. Summary of Resolution(s). The resolution urges federal, state, local, and territorial governments to enact legislation prohibiting discrimination in housing on the basis of lawful source of income.
2. Approval by Submitting Entity. The Council of the Section of Civil Rights and Social Justice approved sponsorship of the Resolution during its Spring Meeting on Saturday, April 29, 2017.

The Council of the Section of State and Local Government Law approved co-sponsorship of the Resolution during its Spring Meeting on Sunday, April 30, 2017.

The Commission on Veterans Legal Services approved co-sponsorship of the Resolution on May 30, 2017.

3. Has this or a similar resolution been submitted to the House or Board previously? No.
4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption? The American Bar Association has a long tradition of actively opposing discrimination on the basis of classifications including race, gender, national origin, disability, age, sexual orientation, and gender identity and expression. The Association has adopted policies calling upon local, state, and federal lawmakers to prohibit such discrimination in housing, as well as in public accommodations, credit, education, and public funding and has sought to eliminate such discrimination in all aspects of the legal profession. The ABA's fundamental position condemning such discrimination is based on its underlying commitment to the ideal of equal opportunity and advancement of human rights. These two principles united in August 2013, when the ABA adopted policy to urge governments to "promote the human right to adequate housing for all" and to "prevent infringement of that right."
5. If this is a late report, what urgency exists which requires action at this meeting of the House? N/A
6. Status of Legislation. (If applicable) Currently, 12 states and the District of Columbia, including Utah, Oklahoma, and nearly 40 cities and counties including New York City, Chicago, Philadelphia, Boston, and Seattle, prohibit discrimination based on lawful source of income. This Resolution will allow the ABA to encourage other jurisdictions to adopt similar laws.

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates. We will work with relevant stakeholders within and outside of the American Bar Association and the Governmental Affairs Office to implement the policy.
8. Cost to the Association. (Both direct and indirect costs) Adoption of this proposed resolution would result in only minor indirect costs associated with Section staff time devoted to the policy subject matter as part of the staff members' overall substantive responsibilities.
9. Disclosure of Interest. (If applicable) There are no known conflicts of interest.
10. Referrals. The Report with Recommendation will be referred to the following entities in the month of June:
 - Section of Administrative Law and Regulatory Practice
 - Criminal Justice Section
 - General Practice, Solo and Small Firm Section
 - Section of Business Law
 - Section of Family Law
 - Section of Real Property, Trust, and Estate Law
 - Section of International Law
 - Section of Labor and Employment Law
 - Section of Litigation
 - Section of State and Local Government Law
 - Section of Taxation
 - Judicial Division
 - Forum on Affordable Housing
 - Law Student Division
 - Senior Lawyers Division
 - Young Lawyers Division
 - Center for Racial and Ethnic Diversity
 - Commission on Law and Aging
 - Commission on Homelessness and Poverty
 - Commission on Mental and Physical Disability Law
 - Commission on Racial and Ethnic Diversity in the Profession
 - Council on Racial and Ethnic Justice
 - Commission on Disability Rights
 - Commission on Youth at Risk
 - Commission on Women in the Profession
 - Commission on Domestic and Sexual Violence
 - Hispanic National Bar Association
 - National Asian Pacific American Bar Association
 - National Association of Women Judges
 - National Association of Women Lawyers
 - National Bar Association Inc.
 - National Conference of Women's Bar Associations
 - National Lesbian and Gay Law Association (National LGBT Bar Association)
 - Veterans Commission
 - National Native American Bar Association

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11. Contact Name and Address Information. (Prior to the meeting. Please include name, address, telephone number and e-mail address)

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12. Contact Name and Address Information. (Who will present the report to the House? Please include name, address, telephone number, cell phone number and e-mail address.)

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EXECUTIVE SUMMARY

1. Summary of the Resolution

The resolution urges federal, state, local, and territorial governments to enact legislation prohibiting discrimination in housing on the basis of lawful source of income.

2. Summary of the Issue that the Resolution Addresses

A common form of discrimination in housing is the denial of housing based on a housing applicant's lawful source of income. As a threshold matter, lawful source of income includes income from: 1) a lawful profession, occupation or job; 2) 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; 3) a gift, an inheritance, a pension, an annuity, alimony, child support, or other consideration or benefit; or 4) the sale or pledge of property or an interest in property. Lawful source of income does not prevent a property owner from determining, in a commercially reasonable and non-discriminatory manner, the ability of a housing applicant to afford to purchase or rent the property.

Every year, families are rejected from housing of their choice because their income, albeit lawful and sufficient in amount, is not accepted by a property owner. Often the denial of housing will serve as a pretext for a prohibited form of discrimination. For example, a property owner who does not want to rent to elderly persons will simply deny a housing application claiming that retirement benefits are not a sufficient source of income. A property owner who does not wish to rent to persons with disabilities will tell an applicant on Supplemental Security Income (SSI) that government benefits are not an acceptable source of income.

3. Please Explain How the Proposed Policy Position Will Address the Issue

This policy will reaffirm the ABA's commitment to ensuring that decisions about housing are made on the basis of *bona fide* qualification rather than stereotypes or prejudices. By adopting this Resolution, the ABA can assist the work of housing advocates, lawmakers and litigators that have tirelessly worked to end the cycle of poverty and right the long effects of racial and economic housing segregation in the United States.

4. Summary of Minority Views or Opposition Internal and/or External to the ABA Which Have Been Identified

No minority views or opposition have been identified.