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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 182
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 182's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Reps. Upchurch and A. Miller

Local Impact Statement Procedure Required: No

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Highlights

- LBO estimates that the number of new charges that could be filed with the Ohio Civil Rights Commission alleging housing discrimination on the basis of lawful source of income at around 100 annually. It is unclear how much of an increase in annual filings the Commission can absorb before additional funding would be needed to hire new investigators/mediators. The Commission estimates the annual cost of one full-time equivalent investigative staff person at \$80,000, inclusive of benefits.
- Courts of common pleas are expected to absorb any additional civil actions filed alleging housing discrimination with little, if any, discernible effect on their daily cost of operations.

Detailed Analysis

The bill adds to the housing discrimination provisions of the Ohio Civil Rights Law to prohibit landlords from taking certain actions based on a tenant's or prospective tenant's "lawful source of income." Details of the specific actions prohibited are available in LSC's bill analysis.¹ Under the bill, lawful source of income includes benefits and subsidy programs such as housing assistance, housing vouchers, and other specified forms of assistance.

There are two federal housing assistance programs, administered by the U.S. Department of Housing and Urban Development (HUD), that are operated in Ohio by 78 public housing agencies (the Public Housing Program and the Housing Choice Voucher Program, or Section 8).

¹ <https://www.legislature.ohio.gov/download?key=16086&format=pdf>.

According to the Center on Budget and Policy Priorities, 447,300 people in 234,000 Ohio households used federal rental assistance as of December 2019.

Ohio Civil Rights Commission

Unlike the majority of housing charges investigated by the Ohio Civil Rights Commission for which it receives money under a work-sharing agreement with HUD, the Commission would not receive federal funding for investigating charges alleging discrimination based on lawful source of income. This is because lawful source of income is not a protected class under Title VIII of the federal Fair Housing Act of 1968. Typically, the federal funding received from HUD is used to offset investigation costs. However, these reimbursement payments do cover the full cost of processing the cases. The remainder of the cost must be absorbed by GRF funds. Because of incurring nonreimbursable expenses, pressure will be put on the Commission's GRF funding.

Data that exists from other states with statutes prohibiting source of income discrimination suggest that the number of charges filed alleging discrimination based on a lawful source of income will be relatively small. The Poverty and Race Research Action Council reports 18 states, and the District of Columbia, with such statutes that provide varying degrees of protection.^{2, 3} The table below summarizes available charging or case data from select states, collected from state government sources.

As shown in the table, the rate of source of income charges (or the equivalent) ranges between 0.017% and 0.026% per total individuals using federal rent assistance. If one assumes that, subsequent to the bill's enactment, Ohio will mirror these findings, then adding source of lawful income to the list of covered characteristics protected against housing discrimination will generate between 76 and 116 more filings for the Commission to resolve annually. Of percentage of total charges, source of income averages at 1.9%. Applying the average source of income charges (1.9%) to Ohio's FY 2020 total charges by basis (4,983), further suggests a number within that range – 95 charges. Because a single charge can be filed on multiple bases, the actual number of cases may be less.

Summary of Source of Income (SOI) or Equivalent Charges or Cases for Selected States				
State	Charges or Cases		Federal Rent Assistance, 2019	
	SOI	% of Total	People	SOI Charge %
Connecticut ^a	28	0.72% (3,875)	162,700	0.017%
District of Columbia ^b	22	4.3% (512)	85,800	0.026%
Maine ^c	10	1.4% (715)	52,700	0.019%

² California, Connecticut, Colorado, Delaware (limited protection for housing vouchers), District of Columbia, Maine (weakened by court interpretation), Maryland, Massachusetts, Minnesota (weakened by court interpretation), New Jersey, New York, North Dakota, Oklahoma, Oregon, Utah, Vermont, Virginia, Washington, and Wisconsin (does not cover housing vouchers).

³ <https://prrac.org/pdf/AppendixB.pdf>.

Summary of Source of Income (SOI) or Equivalent Charges or Cases for Selected States				
State	Charges or Cases		Federal Rent Assistance, 2019	
	SOI	% of Total	People	SOI Charge %
Massachusetts ^d	64	1.9% (3,364)	375,900	0.017%

a: Connecticut Commission on Human Rights and Opportunities, FY 2020

b: District of Columbia Office of Human Rights, FY 2018

c: Massachusetts Commission Against Discrimination, FY 2019

d: Maine Human Rights Commission, FY 2019

In FY 2020, 21%, or 695, of 3,344 cases closed by the Commission involved housing. Typically, the number of completed cases averages around 90 cases per investigator each fiscal year. The Commission does not have the option to refuse to investigate a charge. It is unclear as to how many new filings resulting from the bill that the Commission can process to closure within the statutory timelines at their current staffing level without funding to hire additional investigators/mediators.

Unchanged by the bill, a person who alleges a housing-related violation of Ohio's Civil Rights Law may file a claim with the Commission within one year of the occurrence of the violation. The general sequence of events following a charge involves mediation, and if mediation is unsuccessful or declined, an investigation. If the Commission determines that it is probable that illegal discrimination took place, the Commission initially attempts to conciliate these charges and reach a settlement. When conciliation attempts fail, the charge is referred to the Office of the Attorney General and, if necessary, a public hearing on the merits (administrative adjudication) is held. Mediation is successful roughly 85% of the time. Of the total 3,344 cases closed, over half were closed after finding no probable cause and less than 1% involved a hearing closure.

Courts of common pleas

In addition to or instead of filing a claim with Commission, the aggrieved person may file a civil action in the appropriate court of common pleas. However, for all types of discrimination including housing, the filing of a civil action is more often the exception rather than the rule. Presumably, the resolution of discriminatory practices based on lawful source income would follow a similar path, the filing of a complaint with the Commission as opposed to the filing of a civil action in court. This suggests that the bill is unlikely to generate a significant number of new civil filings for any given court of common pleas to adjudicate. A court should be able to absorb any additional civil action filings into its caseload with little, if any, discernible effect on daily operations and related costs.

In calendar year 2020, the number of incoming civil cases per judge ranged between 46 and 723, with an average of around 350. Only a small subset of these cases relate to discrimination and an even smaller number to, specifically, housing discrimination.⁴

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⁴ <https://www.supremecourt.ohio.gov/JCS/courtSvcS/dashboards/>.