



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 205 (Substitute S-2 as passed by the Senate)
Senate Bill 206 (Substitute S-1 as passed by the Senate)
Senate Bill 207 (Substitute S-3 as passed by the Senate)
Sponsor: Senator Mary Cavanagh (S.B. 205)
 Senator Rosemary Bayer (S.B. 206)
 Senator Jeff Irwin (S.B. 207)
Committee: Housing and Human Services

Date Completed: 10-23-23

INTRODUCTION

Collectively, the bills would prohibit a landlord or a person engaging in real estate transactions from discriminating against a person based on that person's source of income. Source of income would include specified benefits and subsidies, such as public assistance and social security. In addition, modifications proposed to the landlord-tenant Act would allow a person to seek relief or damages in court because of a landlord's source of income discrimination.

BRIEF RATIONALE

Currently, landlords can choose not to rent to tenants or prospective tenants using housing subsidies, specifically tenants or prospective tenants using Housing Choice (Section 8) Vouchers. The Housing Choice Program is a Federal Program meant to assist very low-income families, elderly, and disabled individuals in affording housing. Local public housing agencies administer the Program and pay housing subsidies directly to the landlord. It has been suggested that landlords be prohibited from discriminating against a tenant that would be subsidizing rent through a program or paying rent through other sources of income.

FISCAL IMPACT

Under Senate Bills 205 (S-2) and 206 (S-1), local, district courts could see an increase in landlord/tenant case filings and civil complaints. Any increase in administrative costs or additional hearings is not known at this time. Should an increase in filings occur, additional civil filing fee revenue would be likely. The amount of the increase is not known. Civil filing fee revenue goes into several different restricted funds, including the Court Equity Fund, the State Court Fund, the Court Fee Fund, the Judges' Retirement System, and the Judicial Technology Improvement Fund. Total revenue in FY 2021-22 for civil filing fees amounted to \$30.4 million, of which nearly 97% went to Judiciary restricted funds, with the remaining 3% split between the legislative retirement system and the General Fund.

Senate Bill 207 (S-3) would have a fiscal impact on the Department of Civil Rights. The Department would experience an increase in complaints related to housing, which currently represents 17% of formal complaints made. Since, "source of income" would be an entirely new protected classification, the Department would experience one-time and ongoing costs with the use of new documents, which would need to be processed and reviewed; the Department would have to hire staff to handle those cases.

Proposed MCL 554.601c (S.B. 205); 554.601 (S.B. 206) Legislative Analyst: Eleni Lionas
MCL 37.2502 (S.B. 207) Fiscal Analyst: Cory Savino, PhD; Michael Siracuse

CONTENT

Senate Bill 205 (S-2) would amend the landlord-tenant Act to do the following:

- **Prohibit a landlord from discriminating against a tenant or prospective tenant based on the tenant's or prospective tenant's source of income.**
- **Prohibit a landlord from publishing or causing to be published information indicating a preference, limitation, or requirement based on any source of income.**
- **Require a landlord to subtract from any rental unit's required threshold level of income a rent voucher or subsidy.**
- **Allow a person who suffers a loss because of a landlord's source of income discrimination to bring a civil action to recover actual damages or a specified amount of rent.**
- **Exempt a person with fewer than five rental units from the provisions described above.**

Senate Bill 206 (S-1) would amend the landlord-tenant Act to define "source of income".

Senate Bill 207 (S-3) would amend the Eliot-Larson Civil Rights Act (ELCRA) to prohibit a landlord from discriminating against an individual based on the individual's source of income.

Senate Bill 205 and Senate Bill 206 are tie-barred. Senate Bill 207 is tie-barred to Senate Bill 206.

Senate Bill 205 (S-2)

The bill would amend the tenant-landlord Act to prohibit a landlord from doing any of the following, based on the source of income of an otherwise eligible prospective or current tenant:

- Deny or terminate a tenancy to the prospective or current tenant.
- Make any distinction, discrimination, or restriction against the prospective or current tenant in the price, terms, conditions, fees, or privileges relating to the rental, lease, or occupancy of a rental unit or in the furnishing of any facilities or services in connection with the rental, lease, or occupancy.
- Otherwise make unavailable or deny any rental unit to the prospective or current tenant if the tenant would be eligible to rent the unit but for the individual's source of income.
- Represent to the prospective tenant that a rental unit was not available for inspection, rental, or lease, when in fact it was so available, or knowingly fail to bring up a rental listing to the prospective tenant's attention or refuse to permit the prospective tenant to inspect a rental unit.
- Make any distinction, discrimination, or restriction against the prospective or current tenant in the price, terms and conditions, fees, or privileges relating to the rental, lease, or occupancy of any rental unit on the basis of the prospective or current tenant's use of emergency rental assistance.
- Publish, circulate, issue, or display, or cause to be published, circulated, issued, or displayed, any communication, notice, advertisement, or sign of any kind relating to the rental or lease of any rental unit that indicated a preference, limitation, or requirement based on any source of income.
- Attempt to discourage the rental or lease of any rental unit to the prospective or current tenant.
- Assist, induce, incite, or coerce another person to commit an act or engage in a practice that would violate any action of the bill.

- Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of the person having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the bill.

Additionally, if a landlord required that a prospective or current tenant have a certain threshold level of income, the landlord could not exclude any source of income in the form of a rent voucher or subsidy when calculating whether the income criteria had been met. This provision would not apply to emergency rental assistance.

The bill would allow a person who alleged to have suffered a loss because of a landlord's source of income discrimination to bring a civil action for appropriate injunctive relief or damages, or both. "Damages" would mean actual damages for injury or loss caused by each violation of these provisions, or up to three times the monthly rent for the rental unit or units at issue, whichever is less, together with court costs and reasonable attorney fees.

The bill would specify that the provisions described above would not apply to a person if the person, including all related entities to that person, were a landlord of fewer than five rental units in the State. "Person" would mean an individual, partnership, corporation, association, limited liability company, or any other legal entity. "Related entity" would mean a person that directly or indirectly controls, is controlled by, or is under common control with another person.

Senate Bill 206 (S-1)

The bill would amend the landlord-tenant Act to define "source of income". "Source of income" would include the following benefits or subsidy programs:

- Housing assistance.
- Public assistance.
- Housing Choice Vouchers (HVC) under 42 USC 137f.
- Veterans' benefits
- Social Security
- Supplemental security income or other retirement programs
- Programs administered by any Federal, State, local, or nonprofit entity.

The term would not include either of the following:

- Income that a prospective tenant could not demonstrate derived from sources and activities permitted by law and was provided on an ongoing basis.
- Housing assistance that was not approved by the appropriate agency within 30 days after the landlord provided all information required as a condition of the agency's approval including evidence that all required repairs had been completed.

(Generally, the HVC Program is a Federally funded program administered by the Michigan State Housing Development Authority that provides rental assistance to eligible low-income households.)

Senate Bill 207 (S-3)

Generally, the ELCRA prohibits discrimination in employment, public accommodations and public services, educational facilities, and housing and real estate based on religion, race, color, national origin, age, sex, sexual orientation, gender identity or expression, height, weight, familial status, or marital status.

The bill would amend the ELCRA to prohibit housing discrimination based on an individual's source of income. Additionally, the bill would prohibit a landlord of a rental unit from discriminating against an individual as prohibited under Senate Bill 205 (S-2) and would not apply to a person if the person, including all related entities to that person, were a landlord of fewer than five rental units in the State.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

Senate Bills 205 and 206 are reintroductions of Senate Bills 254 and 255 and House Bills 4553 and 4554, respectively, from the 2021-2022 Legislative Session.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.