

June 8, 2015

Dear Members of the U.S. House of Representatives:

The 54 undersigned civil rights, housing, community development, faith-based, and other organizations vehemently oppose Representative Scott Garrett's (NJ-05) amendment to H.R. 2577, the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for Fiscal Year 2016. Equal opportunity is a bedrock American principle, and critical to our success as a nation. The Garrett amendment would undermine our ability to ensure that all families are treated fairly in their search for a place to live.

The Fair Housing Act has a framework to root out plainly intentional discriminatory acts as well as unnecessary policies or practices that are seemingly "neutral" but that have discriminatory outcomes based on race, color, national origin, sex, religion, familial status, or disability status. Rep. Garrett's amendment would prohibit the use of funds by the Department of Housing and Urban Development (HUD) to implement, administer, or enforce its regulation entitled "Implementation of the Fair Housing Act's Discriminatory Effects Standard"<sup>1</sup> which unified the standard for bringing complaints of housing discrimination using the disparate impact doctrine.

The disparate impact standard of the Fair Housing Act has allowed victims of discrimination to challenge obstacles that limit the availability and enjoyment of housing for people based on race, color, national origin, religion, disability status, familial status, and gender. For example, the standard is used to challenge "one-child-per-bedroom" policies that force families with two or more children to pay higher rents for multi-bedroom apartments. The disparate impact standard also allows individuals to challenge "zero-tolerance" provisions prohibiting criminal activities in rental leases that allow landlords to evict victims of domestic violence. The majority of these victims are women who may experience abuse in their own homes through no fault of their own.

The disparate impact standard, as embodied in HUD's rule and many decades of jurisprudence, is a long-standing and well-established standard under the Fair Housing Act. Congress intended to authorize disparate impact claims in the original Fair Housing Act of 1968 and again in the Fair Housing Amendments Act of 1988, and all 11 federal circuit courts that have ruled on their use have upheld their viability. The disparate impact standard holds simply that to successfully challenge a neutral policy or practice that has a discriminatory effect, evidence must be provided to show that the policy or practice does not serve a legitimate business reason and that there is a less discriminatory policy that could achieve the same business goals. No housing provider, lender or insurer should seek to continue a practice that has a discriminatory effect and serves no legitimate business objective.

HUD's rule clarifies the disparate impact standard for housing providers, lenders and insurers and provides for uniform enforcement of the Fair Housing Act. The rule enables

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<sup>1</sup> 79 Fed. Reg. 11460; Docket No. FR-5508-F-02.

housing providers and lenders to understand the Fair Housing Act's requirements, and employs a critical tool with which the American public can effectively challenge discrimination. We therefore strongly urge you to Vote "NO" on Rep. Garrett's amendment to H.R. 2577.

Please direct questions to Jorge Andres Soto of the National Fair Housing Alliance at [jsoto@nationalfairhousing.org](mailto:jsoto@nationalfairhousing.org) or (202) 898-1661.

Sincerely,

American Association for Access, Equity and Diversity  
American Association of People with Disabilities  
The Arc of the United States  
Asian Americans Advancing Justice | AAJC  
Association of University Centers on Disabilities  
Bazelon Center for Mental Health Law  
California Reinvestment Coalition  
Center for Economic Justice  
Center for Social Inclusion  
Coalition on Human Needs  
Consortium for Citizens with Disabilities Housing Task Force  
Consumer Action  
Corporation for Enterprise Development (CFED)  
Empire Justice Center  
Enterprise Community Partners  
Equal Justice Society  
Fair Share Housing Center  
Family Equality Council  
Housing Assistance Council  
Human Rights Campaign  
Inclusive Communities Project  
International Association of Official Human Rights Agencies (IAOHRA)  
LatinoJustice PRLDEF  
Lawyers' Committee for Civil Rights Under Law  
Leadership Conference on Civil and Human Rights  
Local Initiatives Support Corporation  
MALDEF  
Mental Health America  
NAACP  
NAACP Legal Defense and Educational Fund, Inc.  
National Association of Consumer Advocates (NACA)  
National Black Justice Coalition (NBJC)  
National Coalition for Asian Pacific American Community Development (CAPACD)  
National Consumer Law Center (on behalf of its low-income clients)  
National Council of La Raza (NCLR)  
National Council on Independent Living

National Development Council  
National Disability Rights Network  
National Down Syndrome Society  
National Fair Housing Alliance  
National Housing Law Project  
National Housing Resource Center  
National Housing Trust  
National LGBTQ Task Force Action Fund  
National Low Income Housing Coalition  
National Network to End Domestic Violence  
National People's Action  
National Rural Housing Coalition  
National Urban League  
New Economy Project  
PolicyLink  
Poverty & Race Research Action Council  
The Other 98%  
The Union for Reform Judaism