



Committee: PHP

Committee Review: At a future date

Staff: Ludeen McCartney-Green, Legislative Attorney

Purpose: To introduce agenda item – no vote expected

AGENDA ITEM #10B

July 28, 2026

Introduction

SUBJECT

Bill 38-26, Discriminatory Housing Practices and Early Lease Termination – Amendments

Lead Sponsor: Councilmember Mink

Co-Sponsors: Councilmembers Stewart and Jawando

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A; introduction

DESCRIPTION/ISSUE

Bill 38-26 would:

- (1) prohibit discrimination based on citizenship or immigration status in the sale or rental of housing;
- (2) permit the landlord to allow early termination of a residential lease under certain circumstances; and
- (3) generally amend the law regarding housing discrimination and landlord-tenant relations.

SUMMARY OF KEY DISCUSSION POINTS

N/A

This report contains:

Staff Report

Bill 38-26

Pages 1–2

© 1

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MEMORANDUM

July 23, 2026

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Bill 38-26, Discriminatory Housing Practices and Early Lease Termination - Amendments

PURPOSE: Introduction – no Council votes required

Bill 38-26, Discriminatory Housing Practices and Early Lease Termination - Amendments sponsored by Lead Sponsor Councilmember Mink and Co-Sponsors Councilmembers Stewart and Jawando, is scheduled to be introduced on July 28, 2026. A public hearing is tentatively scheduled for September 15, 2026, at 1:30 p.m.

Bill 38-26 would:

- (1) prohibit discrimination based on citizenship or immigration status in the sale or rental of housing;
- (2) permit the landlord to allow early termination of a residential lease under certain circumstances; and
- (3) generally amend the law regarding housing discrimination and landlord-tenant relations.

PURPOSE

The purpose of Bill 38-26 is twofold: 1) to expand the County's fair housing law to prohibit discrimination on the basis of citizenship or immigration status, thereby ensuring that individuals are not denied the opportunity to rent or purchase housing in the County because of their citizenship or immigration status; and 2) to authorize a tenant to terminate a residential lease early when an active immigration proceeding substantially affects the tenant's continued occupancy of the rental property.

BACKGROUND

Federal and Maryland Fair Housing Law

Federal and Maryland state law prohibit housing discrimination. The federal Fair Housing Act (FHA), enacted in 1968, covers rentals, sales, and mortgages, protecting individuals on the

basis of race, color, religion, sex, national origin, disability, and familial status.¹² Landlords, lenders, and real estate agents are prohibited from refusing to rent, offering discriminatory terms, or falsely stating a property is unavailable. While the FHA does not explicitly list "citizenship" as a protected class, it does protect against discrimination based on national origin (where you or your ancestors were born, your accent, or your native language). Therefore, housing providers must treat all applicants equally.³

Pursuant to §20-702 of the Maryland State Government Article:

(a) *It is the policy of the State:*

(1) *to provide for fair housing throughout the State to all, regardless of race, color, religion, sex, familial status, national origin, marital status, sexual orientation, gender identity, disability, source of income, or military status; and*

(2) *to that end, to prohibit discriminatory practices with respect to residential housing by any person, in order to protect and ensure the peace, health, safety, prosperity, and general welfare of all.*

Maryland does not include "citizenship status" or "immigration status" as a protected class under state law. Senate Bill 875 of 2022 (cross-filed House Bill 928), *Discrimination in Housing – Citizenship, Immigration Status, and National Origin*, was introduced before the Maryland General Assembly to prohibit discrimination based on a person's citizenship or immigration status, but the bill failed to make it out of the Senate and House committees.

Does the County have the authority to expand the protected classes under local law?

Even though Maryland law does not *expressly* prohibit discrimination based on citizenship or immigration, this does not signify the County is barred from expanding its anti-discrimination protections.

The Court held in *Barnes v. State ex rel. Pinkney*, 236 Md. 564, 204 A.2d 787 (1964), that a common-law duty not to discriminate extended to an "inn," and such an extension of the public accommodation law is within the legislative discretion, under the police power, to determine what measures are necessary or appropriate for the protection of the health, morals, or welfare of the people. Further, in *Barnes*, the court stated that it will not interfere with its exercise if the regulation is not arbitrary, oppressive, or unreasonable, even if doing so may inconvenience individual citizens (emphasis added). *Id.* at 787.

In *Montgomery Cnty. v. Glenmont Hills Assocs. Priv. World at Glenmont Metro Ctr.*, 402 Md. 250, 936 A.2d 325 (2007), the Supreme Court of Maryland considered a 1991 amendment to the County's fair housing law (Section 27-12) that made it unlawful for certain landlords to refuse

¹ 42 U.S.C. §3601 et seq.

² The Fair Housing Act does not expressly prohibit discrimination on the basis of sexual orientation or gender identity. However, courts have construed the Act's prohibition against sex discrimination to encapsulate discrimination on the basis of sexual orientation and gender identity in line with the Supreme Court's 2020 decision in *Bostock v. Clayton County*. <[The Fair Housing Act \(FHA\): A Legal Overview](#)>

³ <https://www.fairhousingnc.org/wp-content/uploads/2014/10/HUD-Immigration-Status-and-Housing-Discrimination-FAQs-7-2012.pdf>

to sell, lease, or rent housing based on a person's **source of income**. At the time, Section 27-6 defined "source of income" to include "any lawful source of money, paid directly or indirectly to a renter or buyer of housing, including income from ... any government or private assistance, grant, or loan program."

The Court held that the County's amendments were constitutional and were not preempted by federal law. In reaching that decision, the Court analyzed only the relationship between the County's fair housing law and federal law and did not address whether the local law was preempted by State law. Although the issue of State-law preemption was before the Court, it remained silent on that question. Instead, the Court recognized the County's authority to prohibit discrimination against recipients of housing assistance under its fair housing law.⁴

The County's public housing authority – the Housing Opportunities Commission (HOC) - *expressly* has a fair housing and discrimination policy that prohibits discrimination on the basis of citizenship.

Other jurisdictions with similar protections

Prince George's County fair housing law prohibits discrimination on the basis of citizenship and immigration status, while Anne Arundel County fair housing law includes citizenship. New York City bans inquiries into an applicant's citizenship status.

BILL DESCRIPTION

Bill 38-26 would expand the protected class under the County's fair housing law to include citizenship and immigration status. A landlord or realtor would be prohibited from discriminating against an individual because the individual or their family is from another country, is in an active immigration proceeding, is undocumented, or has an immigrant visa.

Further, the bill expands on tenants' right to terminate a lease early, if:

- the tenant is being deported, detained, or held for more than 30 days pursuant to immigration proceedings; or
- the tenant is facing financial hardship due to an occupant of the rental property being deported, detained, or held for more than 30 days pursuant to immigration proceedings.

Any person subjected to an act of discrimination or intimidation under the County's Human Rights and Civil Liberties law may pursue a civil action under Maryland law. A person who substantially prevails in a civil action may recover costs and reasonable attorney's fees. If a person fails to comply with a court order issued in a civil action under this article, the Commission, acting through the County Attorney, may sue to compel compliance, and the County may recover costs

⁴ At the time of the Court's decision, the state law on housing discrimination did not include "source of income" as a protected class. It was only added during the passage of the Housing Opportunities Made Equal Act of 2020 (SB 530). Almost 29 years after Montgomery County included "source of income" in its law.

and reasonable attorney's fees if the County substantially prevails in the action. The County Attorney may bring a civil action to enforce this article. The County may recover costs and reasonable attorney's fees if the County substantially prevails in an enforcement action.

Complaints related to lease terminations would have been under Chapter 29 of the County Code, including a review by the Office of Landlord Tenant Affairs.

This packet contains:
Bill 38-26

Circle #
1

Bill No. 38-26
Concerning: Discriminatory Housing
Practices and Early Lease
Termination – Amendments
Revised: 7/17/2026 Draft No. 2
Introduced: _____
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Mink
Co-Sponsors: Councilmembers Stewart and Jawando

AN ACT to:

- (1) prohibit discrimination based on citizenship or immigration status in the sale or rental of housing;
- (2) permit the landlord to allow early termination of a residential lease under certain circumstances; and
- (3) generally amend the law regarding housing discrimination and landlord-tenant relations.

By amending

Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Sections 27-1 and 27-12

Chapter 29, Landlord-Tenant Relations
Section 29-27

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 27-1, 27-12, 29-27 are amended as follows:

27-1. Statement of policy.

(a) The County Council finds that discrimination because of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, genetic status, presence of children, family responsibilities, citizenship status, immigration status, source of income, sexual orientation, or gender identity adversely affects the health, welfare, peace, and safety of the community. Persons subject to discrimination suffer unemployment and underemployment resulting in low family income, overcrowded housing, poor health conditions, antisocial behavior, poverty, and lack of hope, injuring the public welfare, placing a burden upon the public treasury to ameliorate the conditions thus produced, and creating conditions which endanger the public peace and order. Montgomery County's policy is to foster equal opportunity for all without regard to race, color, religious creed, ancestry, national origin, sex, marital status, age, disability, presence of children, family responsibilities, citizenship status, immigration status, source of income, sexual orientation, gender identity, or genetic status and strictly in accord with their individual merits as human beings.

* * *

27-12. Discriminatory housing practices.

(a) A person must not, because of race, color, religious creed, ancestry, national origin, sex, marital status, disability, presence of children, family responsibilities, citizenship status, immigration status, source of income, sexual orientation, gender identity, or age:

- (1) refuse, or refuse to negotiate, to sell, broker, appraise, lease, sublease, rent, assign, or otherwise transfer the title, leasehold, or other interest in any housing;
- (2) represent that housing is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when it is available;
- (3) otherwise deny or withhold any housing from any person;
- (4) include in the terms, conditions, or privileges of any sale, lease, sublease, rental, assignment, or other transfer of any housing, any clause, condition, or restriction discriminating against any person in the use or occupancy of that housing; or
- (5) discriminate in the furnishing of any facilities, repairs, improvements, or services, or in the terms, conditions, privileges, or tenure of occupancy of any person.

* * *

29-27. Contents of the lease.

Each lease for rental housing located in the County must:

- (s) Allow the tenant to terminate the lease upon 30 days' written notice to the landlord due to:
 - (1) an involuntary change of employment from the Washington metropolitan area;
 - (2) the death of major wage earner;
 - (3) unemployment;
 - (4) the tenant or the tenant's child being a victim of domestic violence;
 - (5) a landlord harassing the tenant or violating the tenant's privacy rights;
 - (6) the tenant or tenant's spouse:
 - (A) being 62 years of age or older;

- 53 (B) being unable to live independently; and
- 54 (C) needing to move to a nursing home or other senior citizen
- 55 housing;
- 56 (7) the tenant being incarcerated or declared mentally incompetent;
- 57 (8) a tenant:
- 58 (A) being deported, detained, or held for more than 30 days
- 59 pursuant to immigration proceedings; or
- 60 (B) facing financial hardship due to an occupant of the rental
- 61 property being deported, detained, or held for more than 30
- 62 days pursuant to immigration proceedings.
- 63 [(8)] (9) * * *
- 64 [(9)] (10) other reasonable cause beyond the tenant's control. Except for the
- 65 reason listed in paragraph(s) [(8)] (9), the lease may provide that in
- 66 the event of termination under this provision, the tenant is liable
- 67 for a reasonable termination charge not to exceed the lower of one
- 68 month's rent or actual damages sustained by the landlord.