

Union Calendar No. 548

116TH CONGRESS
2D SESSION

H. R. 149

[Report No. 116–664]

To authorize funds to prevent housing discrimination through the use of nationwide testing, to increase funds for the Fair Housing Initiatives Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on Financial Services

DECEMBER 17, 2020

Additional sponsors: Mr. PERLMUTTER, Mr. DAVID SCOTT of Georgia, Mr. LAWSON of Florida, Mr. CLAY, Mr. CLEAVER, Ms. TLAIB, Mr. SAN NICOLAS, Mr. HECK, Mr. BLUMENAUER, and Mr. DELGADO

DECEMBER 17, 2020

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on January 3, 2019]

A BILL

To authorize funds to prevent housing discrimination through the use of nationwide testing, to increase funds for the Fair Housing Initiatives Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Housing Fairness Act*
 5 *of 2020”.*

6 **SEC. 2. TESTING FOR DISCRIMINATION.**

7 *(a) ELIGIBLE ACTIVITY UNDER FHIP.—Subsection*
 8 *(a) of section 561 of the Housing and Community Develop-*
 9 *ment Act of 1987 (42 U.S.C. 3616a(a)) is amended—*

10 *(1) in the matter preceding paragraph (1), by*
 11 *inserting after “discriminatory housing practices” the*
 12 *following: “or, in the case of grants or contracts for*
 13 *activities under paragraph (3) with qualified private,*
 14 *non-profit fair housing enforcement organizations*
 15 *that have demonstrated expertise in managing and*
 16 *implementing regional or national testing programs*
 17 *to address systemic fair housing issues”;*

18 *(2) in paragraph (1), by striking “and” at the*
 19 *end;*

20 *(3) in paragraph (2), by striking the period at*
 21 *the end and inserting “; and”; and*

22 *(4) by adding at the end the following:*

23 *“(3) programs of regional or national testing*
 24 *and investigations to (i) detect and document dif-*
 25 *ferences in the treatment of persons seeking to rent or*

1 *purchase housing or obtain or refinance a home mort-*
2 *gage loan, and measure patterns of differential treat-*
3 *ment because of the status of a renter, home buyer, or*
4 *borrower as a member of the protected classes under*
5 *the Fair Housing Act (42 U.S.C. 3601 et seq.), and*
6 *(ii) measure the prevalence, nature, and extent of dis-*
7 *criminatory practices covered under the Fair Housing*
8 *Act.*

9 *The results of any testing and investigations pursuant to*
10 *paragraph (3) may be used as the basis for the Secretary,*
11 *or any Federal agency authorized to bring such an enforce-*
12 *ment action, or any State or local government or agency,*
13 *public or private nonprofit organization or institution, or*
14 *other aggrieved parties as defined by title VIII of the Civil*
15 *Rights Act of 1968 or other substantially equivalent State*
16 *or local fair housing law, or other public or private entity*
17 *that the Secretary has entered into a contract or cooperative*
18 *agreement with under this section to commence, undertake,*
19 *or pursue any investigation or enforcement action to rem-*
20 *edy any discriminatory housing practice (as such term is*
21 *defined in section 802 of the Fair Housing Act (42 U.S.C.*
22 *3602)) uncovered as a result of such testing and investiga-*
23 *tions. Testing conducted pursuant to paragraph (3) shall*
24 *not constitute a violation of any provision of criminal law*
25 *or the Truth in Lending Act (15 U.S.C. 1601 et seq.).”.*

1 (b) *REGULATIONS*.—Not later than the expiration of
 2 the 180-day period beginning on the date of the enactment
 3 of this Act, the Secretary of Housing and Urban Develop-
 4 ment shall issue regulations that apply the minimum tester
 5 training standards required under section 125.107 of title
 6 24, Code of Federal Regulations, to organizations con-
 7 ducting testing under section 561(a)(3) of the Housing and
 8 Community Development Act of 1987, as added by the
 9 amendment made by subsection (a)(4) of this section. Any
 10 subsequent amendments, changes, and updates to such min-
 11 imum standards shall apply to all activities under such sec-
 12 tion 561.

13 **SEC. 3. FAIR HOUSING INITIATIVES PROGRAM.**

14 (a) *AMENDMENTS TO PROGRAM*.—Section 561 of the
 15 Housing and Community Development Act of 1987 (42
 16 U.S.C. 3616a) is amended—

17 (1) in subsection (b)—

18 (A) in paragraph (1), by inserting “quali-
 19 fied” before “private nonprofit fair housing en-
 20 forcement organizations,”; and

21 (B) in paragraph (2), by inserting “quali-
 22 fied” before “private nonprofit fair housing en-
 23 forcement organizations,”;

24 (2) in subsection (c), by adding at the end the
 25 following:

1 “(3) *PROGRAM-EARNED INCOME*.—No restric-
 2 *tions on the use of program-earned income received by*
 3 *qualified fair housing enforcement organizations shall*
 4 *apply after the grant period for such organization*
 5 *ends.”;*

6 (3) *in subsection (d)—*

7 (A) *in paragraph (1)—*

8 (i) *in subparagraph (C), by striking*
 9 *“and” at the end;*

10 (ii) *in subparagraph (D), by striking*
 11 *the period and inserting “; and”; and*

12 (iii) *by adding after subparagraph (D)*
 13 *the following:*

14 “(E) *websites and other media outlets.*”;

15 (B) *in paragraph (2), by striking “or other*
 16 *public or private entities” and inserting “or*
 17 *other public or private nonprofit entities”;*

18 (C) *in paragraph (3), by striking “or other*
 19 *public or private entities” and inserting “or*
 20 *other public or private nonprofit entities”; and*

21 (D) *by adding at the end the following:*

22 “(4) *LIMITATION*.—Notwithstanding any other
 23 *provision of this section, a State or local agency cer-*
 24 *tified by the Secretary under section 810(f) of the*
 25 *Fair Housing Act may receive assistance under this*

subsection only to carry out activities eligible for assistance under this subsection in areas in which no qualified fair housing enforcement organization is available to carry out such activities.

“(5) *ELIGIBILITY.*—Notwithstanding any other provision of this section, if an award of funding under subsection (b) for multiple fiscal years has been made to a qualified fair housing enforcement organization, such organization is, subject only to the availability of amounts provided in appropriation Acts, eligible to receive funding under this subsection for each fiscal year covered by such award under subsection (b).”;

(4) in subsection (e)—

(A) in paragraph (1) by striking “Banking, Finance and Urban Affairs” and inserting “Financial Services”; and

(B) by adding at the end the following:

“(2) *PRIORITY.*—In providing assistance under this section with respect to metropolitan statistical areas for which there are multiple applications for such assistance, the Secretary shall give priority to applications submitted by qualified fair housing enforcement organizations that have experience in conducting fair housing enforcement activities.”;

1 (5) *by striking subsection (g) and inserting the*
 2 *following:*

3 “(g) *AUTHORIZATION OF APPROPRIATIONS.—*

4 “(1) *IN GENERAL.—There are authorized to be*
 5 *appropriated to carry out this section—*

6 “(A) *\$58,000,000 for each of fiscal years*
 7 *2021 through 2025, of which—*

8 “(i) *\$55,000,000 shall be available for*
 9 *any activities under this section other than*
 10 *programs under subsection (a)(3), of*
 11 *which—*

12 “(I) *not less than \$38,000,000*
 13 *shall be for private enforcement initia-*
 14 *tives authorized under subsection (b);*

15 “(II) *not less than \$1,500,000*
 16 *shall be for the fair housing organiza-*
 17 *tions initiative under subsection (c);*

18 “(III) *not less than \$10,000,000*
 19 *shall be for the education and outreach*
 20 *initiative under subsection (d), of*
 21 *which—*

22 “(aa) *at least \$8,000,000*
 23 *shall be for local education and*
 24 *outreach activities; and*

1 “(bb) at least \$2,000,000
2 shall be for national media activi-
3 ties; and

4 “(IV) any remaining amounts
5 shall be used for any program activi-
6 ties authorized under this section; and

7 “(ii) \$3,000,000 shall be available only
8 for programs under subsection (a)(3); and

9 “(B) \$70,000,000 for each of fiscal years
10 2026 through 2031, of which—

11 “(i) for each such fiscal year,
12 \$65,000,000 shall be available for any ac-
13 tivities under this section other than pro-
14 grams under subsection (a)(3), of which—

15 “(I) not less than \$44,000,000
16 shall be for private enforcement initia-
17 tives authorized under subsection (b);

18 “(II) not less than \$1,500,000
19 shall be for the fair housing organiza-
20 tions initiative under subsection (c);

21 “(III) not less than \$12,500,000
22 shall be for the education and outreach
23 initiative under subsection (d), of
24 which—

1 “(aa) at least \$10,000,000
2 shall be for local education and
3 outreach activities; and

4 “(bb) at least \$2,500,000
5 shall be for national media activi-
6 ties; and

7 “(IV) any remaining amounts
8 shall be used for any program activi-
9 ties authorized under this section; and

10 “(ii) for each such fiscal year
11 \$5,000,000 shall be available only for pro-
12 grams under subsection (a)(3).

13 “(2) AVAILABILITY.—Any amount appropriated
14 under this section shall remain available until ex-
15 pended to carry out the provisions of this section.

16 “(3) AWARD OF FUNDING.—Within 90 days after
17 the date of the enactment of any Act making amounts
18 available to carry out this section, the Secretary shall
19 issue a Notice of Funding Availability with respect to
20 such amounts and, within 180 days after such date
21 of enactment, the Secretary shall award such
22 amounts.”;

23 (6) in subsection (h)(1), in the matter following
24 subparagraph (C), by inserting “and meets the cri-

1 *teria described in subparagraphs (A) and (C)” before*
2 *the period at the end; and*

3 *(7) in subsection (j)—*

4 *(A) in the matter preceding paragraph (1),*
5 *by inserting “regarding such preceding fiscal*
6 *year,” after “comprehensive report”; and*

7 *(B) in paragraph (2), by striking “and the*
8 *use of such funds during the preceding fiscal*
9 *year” and inserting “, the use of such funds dur-*
10 *ing the preceding fiscal year, and outcomes such*
11 *as the number of housing units made available*
12 *and accessible to protected classes under the Fair*
13 *Housing Act (42 U.S.C. 3601 et seq.)”.*

14 *(b) STUDY.—The Secretary of Housing and Urban De-*
15 *velopment shall conduct a study to determine the feasibility,*
16 *efficiency, and effectiveness of converting the Fair Housing*
17 *Initiatives Program under section 561 of the Housing and*
18 *Community Development Act of 1987 (42 U.S.C. 3616a)*
19 *into a noncompetitive, entitlement program to provide gen-*
20 *eral operating funding to qualified fair housing organiza-*
21 *tions, the appropriate levels of funding for such a program*
22 *taking into consideration the number of such qualified*
23 *funding recipients, and what factors should be considered*
24 *in providing for an equitable distribution to qualified re-*
25 *cipients of funding. The Secretary shall submit a report to*

1 *the Congress setting forth the results of the study under this*
2 *subsection not later than the expiration of the 12-month pe-*
3 *riod beginning on the date of the enactment of this Act,*
4 *which shall include any recommendations regarding such*
5 *conversion of the program.*

6 **SEC. 4. SENSE OF CONGRESS.**

7 *It is the sense of Congress that the Secretary of Hous-*
8 *ing and Urban Development should—*

9 *(1) fully comply with the requirements of section*
10 *561(d) of the Housing and Community Development*
11 *Act of 1987 (42 U.S.C. 3616a(d)) to establish, design,*
12 *and maintain a national education and outreach pro-*
13 *gram to provide a centralized, coordinated effort for*
14 *the development and dissemination of—*

15 *(A) materials and information about the*
16 *fair housing rights of individuals who seek to*
17 *rent, purchase, sell, or facilitate the sale of a*
18 *home; and*

19 *(B) materials and information about the*
20 *fair housing responsibilities of industry profes-*
21 *sionals providing products and services covered*
22 *under the Fair Housing Act (42 U.S.C. 3601 et*
23 *seq.);*

24 *(2) expend for such education and outreach pro-*
25 *grams all amounts appropriated for such programs;*

1 (3) *fully reinstate the regulations promulgated*
 2 *on July 16, 2015 (80 Fed. Reg. 42271), regarding the*
 3 *fair housing obligations of each recipient of Federal*
 4 *housing and community development funds to affirm-*
 5 *atively further fair housing, as that term is defined*
 6 *under title VIII of the Civil Rights Act of 1968 (42*
 7 *U.S.C. 3601 et seq.); and*

8 (4) *fully comply with the requirements of section*
 9 *810(a) of the Fair Housing Act (42 U.S.C. 3610(a)).*

10 **SEC. 5. GRANTS TO PUBLIC AND PRIVATE ENTITIES TO**
 11 **STUDY HOUSING DISCRIMINATION.**

12 (a) *GRANT PROGRAM.—The Secretary of Housing and*
 13 *Urban Development shall carry out a competitive matching*
 14 *grant program to assist public and private non-profit orga-*
 15 *nizations in—*

16 (1) *conducting studies that examine issues re-*
 17 *garding housing discrimination and segregation and*
 18 *the Fair Housing Act, including—*

19 (A) *the causes of housing discrimination*
 20 *and segregation, including their effects on mem-*
 21 *bers of protected classes under the Fair Housing*
 22 *Act, and their effects on education, poverty, eco-*
 23 *nomie development, health, and other socio-*
 24 *economic factors;*

1 (B) the incidence, causes, and effects of
2 housing discrimination and segregation based on
3 personal characteristics not protected under the
4 Fair Housing Act, including—

5 (i) veteran and military status; and

6 (ii) source of income;

7 (C) the ways in which the use of algorithms
8 and artificial intelligence in the housing and
9 mortgage lending markets impact the avail-
10 ability of housing for protected classes under the
11 Fair Housing Act, including the use of digital
12 and online platforms in the advertising and pro-
13 vision of housing and other services covered
14 under the Fair Housing Act; or

15 (D) any additional topics of study related
16 to the implementation and expansion of the Fair
17 Housing Act; or

18 (2) implementing pilot projects that test solu-
19 tions that will help prevent or alleviate housing dis-
20 crimination and segregation.

21 A grant under this section may provide funding to an orga-
22 nization for only activities under paragraph (1) or para-
23 graph (2) or for activities under both paragraph (1) and
24 (2).

1 (b) *ELIGIBILITY.*—*To be eligible to receive a grant*
2 *under this section, a public or private nonprofit organiza-*
3 *tion shall—*

4 (1) *submit an application to the Secretary of*
5 *Housing and Urban Development, containing—*

6 (A) *the issues the applicant will address*
7 *and a justification for the need to address such*
8 *issues;*

9 (B) *the applicant's experience in formu-*
10 *lating or carrying out programs or activities de-*
11 *scribed in this section; and*

12 (C) *the geographical area and period of*
13 *time to be studied;*

14 (2) *agree to provide matching non-Federal funds*
15 *for 10 percent of the total amount of the grant, which*
16 *matching funds may include monetary donations and*
17 *items donated on an in-kind contribution basis; and*

18 (3) *meet the requirements of a qualified fair*
19 *housing enforcement organization, as such term is de-*
20 *finied in section 561(h) of the Housing and Commu-*
21 *nity Development Act of 1987 (42 U.S.C. 3616a(h)).*

22 (c) *PARTNERSHIPS WITH ACADEMIC INSTITUTIONS.*—
23 *A public or private nonprofit organization applying for a*
24 *grant under this section may partner with an academic or*

1 *educational organization or institution for the purpose of*
 2 *carrying out activities assisted with such grant amounts.*

3 (d) *REPORT.—The Secretary of Housing and Urban*
 4 *Development shall submit a report to the Congress on a bi-*
 5 *ennial basis that provides a detailed summary of the results*
 6 *of the comprehensive studies and pilot projects carried out*
 7 *under subsection (a), together with any recommendations*
 8 *or proposals for legislative or administrative actions to ad-*
 9 *dress any issues raised by such studies. The Secretary may*
 10 *submit the reports required under this subsection as part*
 11 *of the reports prepared in accordance with paragraphs (2)*
 12 *and (6) of section 808(e) of the Fair Housing Act (42 U.S.C.*
 13 *3608(e)) and section 561(j) of the Housing and Community*
 14 *Development Act of 1987 (42 U.S.C. 3616a(j)).*

15 (e) *AUTHORIZATION OF APPROPRIATIONS.—There are*
 16 *authorized to be appropriated to carry out the provisions*
 17 *of this section \$5,000,000 for each of fiscal years 2021*
 18 *through 2025.*

19 **SEC. 6. LIMITATION ON USE OF FUNDS.**

20 *None of the funds made available under this Act, or*
 21 *the amendments made by this Act, may be used for any*
 22 *political activities, political advocacy, or lobbying (as such*
 23 *terms are defined by Circular A–122 of the Office of Man-*
 24 *agement and Budget, entitled “Cost Principles for Non-*
 25 *Profit Organizations”), or for expenses for travel to engage*

- 1 *in political activities or preparation of or provision of ad-*
- 2 *vice on tax returns.*

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